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No. 87-229

IN THE

Supreme Court, U.S.
FILED
SEP 5 1986
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CLERK

# Supreme Court of the United States

OCTOBER TERM, 1986

NO.A-1050

GWENDOLYN L. KING, for herself, and on behalf of all others similarly situated; GWENDOLYN L. KING, as an individual,

Plaintiff(s)/Petitioner(s)/Appellant(s)

v.

STATE OF CALIFORNIA, George Deukmejian, Governor; March Fong Eu, Sec'y of State; JOHN K. VAN DE KAMP, Attorney-General of State; INTEGRITY HOME LOAN CO., INC. ["INTEGRITY, INC."]; PATRICK D. McCARRON, President of INTEGRITY, INC.; JOHN M. PLUMMER, Vice-President of INTEGRITY, INC; [LONNIE KAPLAN, SIMA KAPLAN, alleged Beneficiaries under Trust Deed No.81-1214615, L.A. County, with defunct "California Corporation" R & T FINANCIAL SERVICING CO., INC., Trustee in Foreclosure]; et al,

Defendants/Respondents/Appellees

CIVIL NO.83-6427

APPEAL FROM THE UNITED STATES

COURT OF APPEALS FOR THE NINTH CIRCUIT

## JURISDICTIONAL STATEMENT

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SEPT 04'86

PETITIONER(S)/APPELLANT(S)

NO._____

King et al v California et al

734 F 2d 910 (9th Cir 1986)

NO.A-1050

## JURISDICTIONAL STATEMENT

QUESTIONS PRESENTED FOR REVIEW

1. WHETHER OR NOT, IN ADDITION TO THE U.S. CONSTITUTION, UNDER ARTICLE VI, CLAUSE 2, THE FEDERAL AND STATE GOVERNMENT OFFICIALS HEREIN, ARE GOVERNED BY INTERNATIONAL LAW, TREATIES, CONCERNING THE PROTECTION OF "COLORED" MINORITIES, WOMEN, POOR--APPELLANT(S)--IN THE LEGAL DEPRIVATION UNDER COLOR OF FEDERAL & STATE LAW, OF THEIR HOMES AND LAND, PERSONAL FREEDOM AND LIBERTY, HEALTH AND WELFARE, HUMAN RIGHTS? (U.N. CHARTER, ARTICLES 55(c), 56. APPDX p.117 ; UNIVERSAL DECLARATION OF HUMAN RIGHTS, "LAW OF NATIONS," APPDX p.118 ; MULTILATERAL TREATY ON ABOLITION OF SLAV-

ERY...INSTITUTIONS & PRACTICES SIMILAR TO SLAVERY. APPDX p. 123.)

2. WHETHER OR NOT, UNDER INTERNATIONAL LAW, ABOVE, ARTICLES I, III, VI, FIFTH [FOURTEENTH], THIRTEENTH, AMENDMENTS, U.S. CONSTITUTION, "SEPARATION OF POWERS" DOCTRINE, USDC C CA CHIEF JUDGE, MANUEL L. REAL, AND THE OTHER USDC C CA JUDGES, HAD ANY CONSTITUTIONAL AUTHORITY, POWER, JURISDICTION ON OR ABOUT DEC 24, 1982, TO PROMULGATE A "LOCAL RULE GOVERNING BANKRUPTCY CASES AND PROCEEDINGS Emergency Resolution" AND FURTHER TO "DEPUTIZE" ARTICLE I BANKRUPTCY JUDGES WITH ARTICLE III ATTRIBUTES ON DEC 27, 1982, IN CLEAR AND ANNOUNCED CONTRADICTION OF THE U.S. SUPREME COURT MANDATE OF Northern Pipeline v Marathon Pipe Line, 102 S Ct 2858 (1982)?

3. WHETHER OR NOT, UNDER INTERNATIONAL LAW, ABOVE, ARTICLES III, VI, FIFTH

[FOURTEENTH], SIXTH, SEVENTH, THIRTEENTH, AMENDMENTS, U.S. CONSTITUTION, APPELLANT HAD A "CONSTITUTIONAL" TRIAL OR HEARING BEFORE USBC C CA ARTICLE I BANKRUPTCY JUDGES, HON. BARRY RUSSELL, HON. PETER ELLIOTT, HON. RALPH G. PAGTER, USDC C CA JUDGES MANUEL L. REAL, TERRY J. HATTER, JR., CA9 JUDGES FARRIS, PREGERSON, NORRIS, BEFORE HER HOME AND LAND, PERSONAL FREEDOM AND LIBERTY, HEALTH AND WELFARE, WERE TAKEN UNDER COLOR OF FEDERAL AND STATE LAW? AND IF NOT, WHETHER OR NOT APPELLANT WAS DENIED "DUE PROCESS" OF THE FIFTH [FOURTEENTH] AMENDMENT(S), U.S. CONSTITUTION, AND HUMAN RIGHTS UNDER THE U.N. CHARTER (TREATY), ARTICLES 55(c),56; "LAW OF NATIONS," ARTICLES 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 17, 18, 19, 20, 23, 26, 28, 30; MULTILATERAL TREATY ON ABOLITION OF SLAVERY...ARTICLES 1(a), 2, 5, 7

(a)(b), 8, 9, 10. APPDX p.123 ; APPDX p. 124 ; APPDX p.125 ; AND IF SO, WHETHER OR NOT, UNDER ARTICLES 1(a), 2, 8, 9, 10, MULTILATERAL TREATY ON ABOLITION OF SLAVERY ...INSTITUTIONS & PRACTICES SIMILAR TO SLAVERY, APPELLANT WAS AND IS ALLOWED TO "ESCAPE" FROM THE STATE OF CALIFORNIA, WITH TITLE AND INTEREST TO HER HOME AND LAND VESTED IN THE LOCALITY OF HER FREEDOM?

4. WHETHER OR NOT, UNDER INTERNATIONAL LAW, ABOVE, ARTICLES III, VI, FIFTH [FOURTEENTH], SIXTH, SEVENTH, THIRTEENTH, AMENDMENTS, RULE 53, RULE 83, RULE 43(a), RULE 38(a), RULE 39(a), FRCP, THE ORDERS OF ARTICLE I BANKRUPTCY CONSULTANT JUDGES, HON. BARRY RUSSELL, HON. PETER ELLIOTT, HON. RALPH G. PAGTER, ADVERSARY CASES NOS. LAX82-43130BR, SA83-2194PE, SA84-01312PE Reference No.M4-768PE, RESPECTIVELY, WERE AND ARE CORAM NON JUDICE, NULL & VOID AB

INITIO, AND SHOULD BE VACATED, ANNULLED, SET ASIDE BY THIS SUPREME COURT OF THE U.S. UNDER THE "LAW OF NATIONS" ABOVE CITED IN NO.3 HEREIN? AND IF SO, WHETHER OR NOT EACH OF THE CALIFORNIA STATE COURT ORDERS IN LAMC UNLAWFUL DETAINER CASE NO.A65170CS IN LAMC CRIMINAL CASE NO.31303105DMK, DERIVATELY BASED ON THE ABOVE ARTICLE I BANKRUPTCY CONSULTANT JUDGES ORDERS, RUSSELL, ELLIOTT, PAGTER, SHOULD BE DECLARED UNCONSTITUTIONAL AND VOID BY THIS SUPREME COURT OF THE U.S. UNDER THE "LAW OF NATIONS" ABOVE CITED IN NO.3 HEREIN?

5. WHETHER OR NOT, UNDER INTERNATIONAL LAW, CONCERNING THE PROTECTION OF "COLORED" MINORITIES, WOMEN, POOR--APPELLANT(S) --THEIR HOMES AND LAND, PERSONAL FREEDOM AND LIBERTY, HEALTH AND WELFARE, HUMAN RIGHTS, IN THE COMPLETE ABSENCE OF ANY IN-COURT SWORN TESTIMONY IN ANY TRIAL COURT

IN THE COMPLETE ABSENCE OF ANY SIXTH AMENDMENT RIGHT OF CONFRONTATION DUE APPELLANT(S) IN THE TRIAL COURT BELOW, THE "DE NOVO" REVIEW OF THE NINTH CIRCUIT FURTHER DENIED APPELLANT(S) SIXTH AMENDMENT RIGHTS, "DUE PROCESS" OF THE FIFTH [FOURTEENTH], AMENDMENTS, U.S. CONSTITUTION? AND IF SO, WHETHER OR NOT SUCH "DE NOVO" REVIEW WAS AND IS A "PROCEDURAL INNOVATION" FORBIDDEN BY 28 USC 2071, AND ERROR?

6. WHETHER OR NOT, UNDER INTERNATIONAL LAW, ABOVE, ARTICLES 1, 2, 3, 4, 7, 10, 11, 17, 28, 30, OF THE "LAW OF NATIONS," ARTICLES 1(a), 7(a)(b), 8, 9, 10, OF THE MULTILATERAL TREATY ON ABOLITION OF SLAVERY ...INSTITUTIONS & PRACTICES SIMILAR TO SLAVERY, NINTH CIRCUIT JUDGE FARRIS CAN "CREATE" A CONTRACT BETWEEN APPELLANT AND LONNIE & SIMA KAPLAN ON NOVEMBER 17, 1981, BY DECIDING,IN THEIR COMPLETE ABSENCE IN

ANY TRIAL COURT BELOW, THAT A LEGALLY PROVEN CONTRACTUAL RELATIONSHIP AND/OR LOAN OCCURRED ON NOV 17, 1981, UNDER 15 USC 1601 et seq, TILA, 12 CFR 226, CALIFORNIA CIVIL CODE (CONTRACT LAW) §§ 1549, 1550, 1558, 2920, 2922 (PAGES 911, 912, 913, OF JUDGE FARRIS' OPINION); AND WHETHER OR NOT SUCH "CREATION" OF CONTRACT WITHOUT IN-COURT SWORN TESTIMONY OF DEFENDANTS McCARRON, PLUMMER, KAPLANS, IS ERROR IN FACT AND LAW AND SHOULD BE REVERSED BY THIS SUPREME COURT OF THE U.S.?

7. WHETHER OR NOT, UNDER INTERNATIONAL LAW, ABOVE CITED IN NO.6 HEREIN, THE CLEAVAGE DATE FOR VESTING OF CAUSES OF ACTION IN THE CHAPTER 7 BANKRUPTCY TRUSTEE, JAMES JOSEPH, ESQ., WAS APRIL 04, 1983, DATE OF FILING 11 USC CHAPTER 7 PETITION, In re King, USBC C CA Case NO.SA83-01703PE, AND ON MAY 23, 1983, WHEN APPELLANT RECEIVED

THE THREE (3) NOTICE(S) OF RIGHT TO RESCISSION OF LOANS APPLIED-FOR ON JANUARY 1, 1979, MARCH 27, 1981, NOV 17, 1981, LAWRENCE S. GREENBERG, M.D., INC., NORMAN CANTOR, M.D., LONNIE & SIMA KAPLAN, RESPECTIVELY, AND THREE (3) RESCISSION FORMS ON MAY 23, 1983, APPELLANT LEGALLY AND PROPERLY RESCINDED EN PAIS ALL THREE (3) DISPUTED TRANSACTIONS ON MAY 26, 1983, PURSUANT TO 15 USC 1631 (1968 Act May 29 1968 P.L. 90-321 Title I CHAP §115 as added October 28, 1974 P.L. 93-495 Title IV §413 (a) 88 Stat 1520 [effective until October 1, 1982]),15 USC 1635(a) & (b), Sosa v Fite (CA5 1974) 498 F 2d 114; AND WHETHER OR NOT, THE CAUSE OF ACTION, AT LAW, AROSE ON OR ABOUT SEPTEMBER 14, 1983,AFTER 11 USC CHAPTER 7 DISCHARGE OF DEBTS, WHEN THEY ATTEMPTED FORECLOSURE IN SPITE OF THE MAY 26 RESCISSIONS; AND WHETHER OR NOT, IT WAS

AND IS ERROR IN FACT AND LAW FOR NINTH CIRCUIT JUDGE FARRIS TO DECIDE THAT APPELLANT(S) SIMILARLY SITUATED ARE NOT ENTITLED TO RESCISSION EN PAIS UNDER 15 USC 1631 (1968 Act May 29, 1968 etc.,supra), 15 USC 1635 (a) & (b), TILA, 12 CFR 226, STATUTORY DAMAGES UNDER 15 USC 1640 (a)(1), 15 USC 1640 (a)(2)(b), AND A JURY TRIAL (PAGES 912, 913, 914, 915, 916 OF JUDGE FARRIS' OPINION)?

8. WHETHER OR NOT, NINTH CIRCUIT JUDGE FARRIS' OPINION CONSTRUCTIVELY INVALIDATES ACTS OF CONGRESS, 15 USC 1631 (1968 Act May 29, 1968 etc., supra), 15 USC 1635 (a) & (b), RULE 27(c), FRAP, AND SHOULD BE REVERSED IN A PLENARY DECISION BY THIS SUPREME COURT OF THE U.S. [ATTN: Solicitor-General, U.S.A., 28 USC §2403(a) may be applicable.]

.....

9. WHETHER OR NOT, UNDER INTERNATIONAL LAW, ABOVE CITED IN NO.6 HEREIN, AND THE HELSINKI ACCORDS, INCLUDING BUT NOT LIMITED TO CALIFORNIA CODE OF CIVIL PROCEDURE §§ 83, 86, CALIFORNIA NON-JUDICIAL PRIVATE SALE FORECLOSURE ALLOWING TRANSFER OF TITLE TO LAND,IN A SUMMARY PROCEEDING, IN A COURT NOT OF RECORD, LAMC, IS UNCONSTITUTIONAL, AND IN VIOLATION OF INTERNATIONAL LAW?

10. WHETHER OR NOT, UNDER INTERNATIONAL LAW, ABOVE CITED IN NO.9 HEREIN, CALIFORNIA NON-JUDICIAL PRIVATE SALE FORECLOSURE SUMMARY PROCEEDINGS CULMINATING IN CRIMINAL CHARGES, CPC §419 REPOSSESSION OF LAND AFTER REMOVAL BY LEGAL PROCESS, IS UNCONSTITUTIONAL, AND IN VIOLATION OF INTERNATIONAL LAW?

11. WHETHER OR NOT, UNDER INTERNATIONAL LAW, ABOVE CITED IN NO.10 HEREIN,

PARTICULARLY ARTICLES 1(a), 2, 5, 7, 8, 9, 10, OF THE MULTILATERAL TREATY ON THE ABOLITION OF SLAVERY...INSTITUTIONS & PRACTICES SIMILAR TO SLAVERY, THE UTILIZATION OF CALIFORNIA PRIVATE NON-JUDICIAL FORECLOSURE PROCEEDINGS IN 11 USC CHAPTER 7 LIQUIDATION, ALLOWING A SELECTED ALLEGED CREDITOR TO TAKE AN ENTIRE BANKRUPTCY ESTATE, IN A COURT NOT OF RECORD, LAMC, DEPRIVING THE DEBTOR OF ALL STATUTORY EXEMPTIONS, INCLUDING HOMESTEAD, DEPRIVING ALL OTHER BONA FIDE CREDITORS OF THEIR PRO RATA SHARE, IS IN VIOLATION OF BANKRUPTCY RULE 606(b)(2), AND IS UNCONSTITUTIONAL, AND IN VIOLATION OF INTERNATIONAL LAW?

12. WHETHER OR NOT, UNDER INTERNATIONAL LAW, ABOVE CITED IN NO.11 HEREIN, A DEC 1, 1981 DEFUNCT "CALIFORNIA CORPORATION" R & T FINANCIAL SERVICING CO., INC. TRUSTEE IN FORCLOSURE, CAN LEGALLY TRANS-

FER ANY TITLE, INTEREST, IN APPELLANT(S) HOMES AND LAND, BY R & T CO., INC. TRUSTEE'S DEED(S) UPON SALE, FROM DEC 1, 1981; AND IF NOT WHETHER OR NOT THIS SUPREME COURT OF THE U.S. CAN DECLARE THOSE R & T CO., INC. TRUSTEE'S DEED(S) UPON SALE FROM DEC 1, 1981 NULL & VOID SO AS TO QUIET TITLE DEFINITIVELY IN EACH AND EVERY APPELLANT'S HOME & LAND HEREIN USDC C CA CASE NO.CV83-5901R, King et al v California et al, supra,?

13. WHETHER OR NOT, UNDER INTERNATIONAL LAW, ABOVE CITED IN NO.11, THE NAMED APPELLANT, A BLACK WOMAN, WHO HAS LOST HER HOME AND LAND, PERSONAL FREEDOM AND LIBERTY, HEALTH AND WELFARE, AS A DIRECT AND PROXIMATE RESULT OF THE ALLEGED SALE OF HER HOME AND LAND (BANKRUPTCY ESTATE), BY DEC 1, 1981 DEFUNCT "CALIFORNIA CORPORATION" R & T CO., INC. TRUSTEE IN FORECLOSURE, ON OR ABOUT DEC 22, 1983, R & T CO., INC. TRUSTEE'S DEED UPON

SALE NO.4267 RECORDED IN LOS ANGELES COUNTY, IN VIOLATION OF CALIFORNIA BANK AND CORPORATION TAX LAW, REV & TAX §§23302, 23304, 23571, -- HAS STANDING HEREIN TO SUE FOR THE CLASS OF APPELLANT(S), "COLORED" MINORITIES, WOMEN, POOR, WHO HAVE EITHER LOST THEIR HOMES AND LAND, PERSONAL FREEDOM AND LIBERTY, HEALTH AND WELFARE, OR ARE IN DANGER OF SO LOSING, BY THE ABOVE SAID DEC 1, 1981 DEFUNCT "CALIFORNIA CORPORATION" R & T CO., INC., AND/OR STANDING TO SEEK A MANDATORY PRELIMINARY AND PERMANENT INJUNCTION AGAINST THE STATE, STATE AG, FOR QUO WARRANTO PROCEEDINGS, CCP § 803?

14. WHETHER OR NOT, UNDER INTERNATIONAL LAW, ABOVE CITED IN NO.13 HEREIN, AND UNDER THE EMANCIPATION PROCLAMATION OF 1866, Brown v Bd of Education, 347 U.S.483 (1954), APPELLANT SUFFICIENTLY ALLEGED

FACTS OF DISCRIMINATION AGAINST A "SUSPECT" GROUP IN VIOLATION OF 42 USC 1981, 1982, 1983, 1985, 5th, 14th, 13th AMENDMENTS OF THE U.S. CONSTITUTION, OR IF NOT, UNDER THE HISTORICAL CONDITIONS OF SLAVERY, UNEQUAL AND SEGREGATED EDUCATION OF APPELLANT IN THE 40's AND 50's, WHETHER OR NOT SHE SHOULD HAVE BEEN ALLOWED, AT LEAST ONCE, TO AMEND THE COMPLAINT, AS PRAYED FOR, IN THE INTEREST OF FAIRNESS AND JUSTICE?

15. WHETHER OR NOT, UNDER Mayo v Canning Co., 309 U.S. 310 (1940), USDC C CA CHIEF JUDGE MANUEL L. REAL, ABUSED HIS DISCRETION IN DENYING APPELLANT(S) A MANDATORY PRELIMINARY AND PERMANENT INJUNCTION ENJOINING THE STATE OF CALIFORNIA, STATE AG, TO FORTHWITH BRING QUO WARRANTO PROCEEDINGS, CCP § 803 AGAINST DEC 1,1981 DEFUNCT "CALIFORNIA CORPORATION" TRUSTEE IN FORECLOSURE, R & T CO., INC.?

16. WHETHER OR NOT, APPELLANTS, EACH OF THEM AND ALL OF THEM, HAVE BEEN ILLEGALLY DEPRIVED OF THEIR HOMES AND LAND, AND/OR PERSONAL FREEDOM AND LIBERTY, HEALTH AND WELFARE, BY AGENCIES, AGENTS, OF THE STATE OF CALIFORNIA AND/OR PERSONS ACTING UNDER COLOR OF LAW OF THE STATE OF CALIFORNIA? AND IF SO, WHETHER OR NOT, THIS COURT CAN INVALIDATE DEFUNCT R & T FINANCIAL SERVICING TRUSTEE'S DEEDS UPON SALE, AS OF DECEMBER 1, 1981, HEREIN, SO AS TO QUIET TITLE TO APPELLANTS HOME & LAND?

17. WHETHER OR NOT, THIS CASE, CA9 NO.83-6427, King et al v California et al, supra, SHOULD BE CONSOLIDATED WITH CA9 NO. 84-5762, King et al v Lonnie Kaplan, Sima Kaplan et al, NOW PENDING BEFORE THE NINTH CIRCUIT, AND/OR CA9 NO.85-2879, King etc. v Russell et al, JURISDICTIONAL STATEMENT, JURISDICTIONAL STATEMENT APPENDICES, FILED

IN FORMA PAUPERIS HEREIN, AUGUST 23, 1986, UNDER 28 USC 1252 OR 28 USC 2103?

18. WHETHER OR NOT, UNDER 28 USC 455 (a) AND/OR 28 USC 455(b)(1), AND/OR ARTICLES 1(a), 2, 7, MULTILATERAL TREATY ON ABOLITION OF SLAVERY...,APPDX p.133,123,124, "LAW OF NATIONS" APPDX p.124, U.N.CHARTER (TREATY) APPDX p.117, 5th, 6th, 13th, 14th AMENDMENTS, ARTICLES IV, VI, APPDX p.114, U.S. CONSTITUTION, THE ABOVE CASES CITED IN NO.17 HEREINABOVE SHOULD BE CONSOLIDATED, UPON PROPER MOTION, AND TRANSFERRED TO THE JUDICIAL PANEL ON MULTIDISTRICT LITIGATION PURSUANT TO 28 USC 1407(a), (c)?

19. WHETHER OR NOT, CALIFORNIA PENAL CODE §419 APPDX p.147, IS UNCONSTITUTIONAL ON ITS FACE AS VAGUE OR OVERBROAD, AND/OR UNCONSTITUTIONAL AS APPLIED TO APPELLANT IN LAMC CASE NO.31303105, APPDX pp.28-110.

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ON THE ABOLITION OF SLAVERY...

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FRCP 53(b), 53(e)
FRCP 54(a)
FRCP 54(b)

FRCP 55

FRCP 83

USDC C CA Local Rule

Emergency Resolution Governing

Bankruptcy Proceedings (1982)J.S.p. 35

FEDERAL RULES OF APPELLATE PROCEDURE

FRAP 1(a), (b)

FRAP 27(c) 9,62

FRAP 27(d)

FRAP 47

FEDERAL RULES OF BANKRUPTCY

BR RULE 6009

BR RULE 6007 (a), (b)

BR RULE 6004 (a), (e)

[Old BR RULE 606(b)(2)] 9,48

BR RULE 2002(a)(c) 9,48

CALIFORNIA BANK & CORP TAX LAW

REVENUE & TAX CODE

Cal Rev & Tax Code §23302 30,43,58

Cal Rev & Tax Code §23304 30

Cal Rev & Tax Code §23571 30,43,58

## CALIFORNIA CIVIL CODE


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|---|---|
| CCC §1265 | |
| CCC §1549 | 25,31,61 |
| CCC §1550 | 25,31,61 |
| CCC §1558 | 25,31,61 |
| CCC §2920 | 25,31,61 |
| CCC §2922 | 25,31,61 |


## CALIFORNIA CODE OF CIVIL PROCEDURE


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|---|---|
| CCP §83 | 63,64,65 |
| CCP §86 | 63,64,65 |
| CCP §410.10 | 63,64,65 |
| CCP §418.10 | 63,64,65 |
| CCP §803 | 46,47,57,59 |


## CALIFORNIA PENAL CODE


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|---|---|
| CPC §419 | 9,50,63,64 |
| CPC §1024 | 50,64 |


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FIN

CA9 NO.83-6427

JURISDICTIONAL STATEMENT

SEPTEMBER 04,1986

NO._____

IN THE

SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1986

NO.A-1050

GWENDOLYN L. KING, for herself, and on behalf of all others similarly situated; GWENDOLYN L. KING, as an individual,

Plaintiff(s)/Petitioner(s)/Appellant(s)

v.

STATE OF CALIFORNIA, George Deukmejian, Governor; March Fong Eu, Sec'y of State; JOHN K. VAN DE KAMP, Attorney-General of State; INTEGRITY HOME LOAN CO., INC. ["INTEGRITY, INC."]; PATRICK D. McCARRON, President of INTEGRITY, INC.; JOHN M. PLUMMER, Vice-President of INTEGRITY, INC; [LONNIE KAPLAN, SIMA KAPLAN, alleged Beneficiaries under Trust Deed No.81-1214615, L.A. County, with defunct "California Corporation" R & T FINANCIAL SERVICING CO., INC., Trustee in Foreclosure]; et al,

Defendants/Respondents/Appellees

**CIVIL NO.83-6427**

APPEAL FROM THE UNITED STATES

COURT OF APPEALS FOR THE NINTH CIRCUIT

## JURISDICTIONAL STATEMENT

GWENDOLYN L. KING, for herself, and on behalf of all others similarly situated; GWENDOLYN L. KING, as an individual, Plaintiff(s)/Petitioner(s)/Appellant(s), IN PRO SE herein ("APPELLANT(S)" and/or "APPELLANT"), file this JURISDICTIONAL STATEMENT, pursuant to Rules 12.3 and 15, Revised Rules of the Supreme Court of the United States, wherein it is contended that the Supreme Court of the United States has the jurisdiction on direct appeal to review the final judgment(s) in question, or that any improvident Appeal herein be treated as Petition for Certiorari pursuant to 28 USC 2103, and it is further contended that this Court should exercise such jurisdiction herein.

## OPINIONS BELOW

The official report of the Opinion of

Circuit Judge FARRIS, of the Ninth Circuit Court of Appeals, appears as King et al v. California et al, 784 F 2d 910 (9th Cir 1986), and is quoted verbatim herein the APPENDICES ("APPDX") p. 1 .

The May 08, 1986 ORDER denying and rejecting APPELLANT(S) PETITION FOR RE-HEARING EN BANC, is included herein as APPDX p. 16 .

The unofficial report of the ORDER of the United States District Court of Central California ("USDC C CA"), Chief Judge MANUEL L. REAL, dated November 10, 1983, Filed November 14, 1983, dismissing Defendants, STATE OF CALIFORNIA ("STATE"), JOHN K. VAN DE KAMP, Attorney-General of the STATE ("STATE AG") from the Civil Complaint No.CV83-5901R, the Trial Court below, is included herein as APPDX p. 24 .

The unofficial report of the ORDER

DISMISSING COMPLAINT, of the USDC C CA, Chief Judge MANUEL L. REAL, dated November 10, 1983, filed November 10, 1983, dismissing Defendants, INTEGRITY HOME LOAN CO., INC. ("INTEGRITY, INC."), PATRICK D. McCARRON, President of INTEGRITY, INC. ("McCARRON" and/or "INTEGRITY, INC."), JOHN M. PLUMMER, Vice-President of INTEGRITY, INC. ("PLUMMER" and/or "INTEGRITY, INC."), from the Civil Complaint No.CV83-5901R, the Trial Court below, is included herein as APPDX p. 22 .

The only USDC C CA ORDER in the Ninth Circuit Court Record, dated November 07, 1983, denying APPELLANT(S) November 04, 1983 EX PARTE MOTION FOR EXTENSION OF TIME AND FOR CONTINUANCE OF HEARING DATE OF NOVEMBER 07, 1983 ON MOTION(S) TO DISMISS Defendants, STATE, STATE AG, INTEGRITY, INC.from the Civil Complaint No.CV83-5901R

the Trial Court below, is included herein as APPDX p. 26, and appears in the Ninth Circuit Court Record on Appeal as CR DOC NO. 19.

In the lead, related Case, United State Supreme Court ("U.S. S.C."), King et al v Real, Brosnan, Russell, Elliott, et al, ex rel Integrity, Inc., Kaplan (U.S. S.C. NO.84-695, CA9 NO.84-7097, USDC C CA No.CV83-5901R) 105 S Ct Rptr 768 no.5 (1984), which Case was dismissed for lack of jurisdiction on or about January 7, 1985, Petition for Rehearing denied on or about March 7, 1985, APPELLANT(S) had served and filed herein a JURISDICTIONAL STATEMENT NO.84-695 ("84 JS"), with attached APPENDICES ("84 APPDX"), of which this Court is respectfully requested to take Judicial Notice as referred to herein.

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GROUNDS OF JURISDICTION HEREIN

The direct appeal herein is from the above official report of the Opinion of Ninth Circuit Judge FARRIS as appears in King et al v California et al, 784 F 2d 910 (9th Cir 1986), quoted verbatim, and included herein as APPDX p. 1, supra, entered March 7, 1986.

APPELLANT(S) had served and filed a PETITION FOR REHEARING EN BANC on or about March 20, 1986, which was denied and rejected by ORDER dated May 08, 1986, APPDX p. 16, supra.

On May 13, 1986, APPELLANT(S) had served and filed in the Ninth Circuit, a NOTICE OF APPEAL, APPDX p. 18.

On May 28, 1986, APPELLANT(S) had served and filed in the Ninth Circuit, an AMENDED NOTICE OF APPEAL, superceding the above May 13, 1986 NOTICE OF APPEAL, supra,

APPDX p. 20 .

This direct appeal from the above official report of the Opinion of Ninth Circuit Judge FARRIS, APPDX p. 1 , supra, is being docketed within sixty (60) days of May 08, 1986, as extended to September 5, 1986, by July 11, 1986 ORDER NO.A-1050 of Mr. Justice WILLIAM H. REHNQUIST, Associate Justice, and Ninth Circuit Justice, included herein as APPDX p. 28 .

Jurisdiction is invoked herein under 28 USC 1252 and/or 28 USC 1254(1) and/or 28 USC 1254(2) and/or 28 USC 1257(1)(2) and/or 28 USC 1257(3), or 28 USC 2103 for any improvident direct appeal, as more fully described infra.

To the extent legally permissible herein, jurisdiction is further invoked under 42 USC 1981, 1982, 1983, 1985, as more fully described APPDX pp. 129,130,134.

To the extent legally permissible herein, jurisdiction is further invoked under International Law, Article VI, Clause 2 of the United States Constitution: the United Nations Charter ("U.N. CHARTER") Articles 55(c), 56, the "LAW OF NATIONS," the Multilateral Treaty on Abolition of Slavery...Institutions and Practices Similar to Slavery, and the Helsinki Accords, as concerns the protection of "Colored" Minorities and/or women and/or the poor, Title to their homes and land, their human rights under International Law, as more fully described infra, concerning APPELLANT(S) APPDX pp. 117-125.

It is suggested herein that the official published report of the Opinion of Ninth Circuit Judge FARRIS invalidates Acts of Congress, 15 USC 1601 et seq, TILA 12 CFR 226, specifically 15 USC 1631 (1968

Act May 29, 1968 P.L. 90-321, Title I Chap §115 as added October 28, 1974 P.L. 93-495 Title IV §413(a) 88 Stat 1520 (effective until October 1, 1982), specifically 15 USC 1635 (a) & (b) Rescission en pais, specifically 12 CFR 226, specifically Rule 27(c), Federal Rules of Appellate Procedure ("FRAP"), specifically 28 USC 2072 as concerns "de novo" Review [NOTA BENE: Solicitor-General, U.S.A., 28 USC 2403(b) may be applicable.]. APPDX pp. 127, 128, 132.

It is suggested herein that California non-judicial forclosure Statutes permitting transfer of Title to land in the Los Angeles Municipal Court("LAMC"),Court not of Record, and California Penal Code ("CPC") §419 are unconstitutional and/or unconstitutional as applied to APPELLANT(S) and/or as applied under Bankruptcy Rule 606(b)(2), and said Statutes are repugnant

to the U.S. Constitution, particularly Article I Section 1, Article I Section 8, Cl. 3, Article III Section 1, Article VI Cl.2, the First Amendment, Fourth Amendment, Fifth [Fourteenth], Sixth, Seventh, Eighth, Thirteenth, Amendments, of the U.S. Constitution,particularly the above described Treaties, including but not limited to the U. N. CHARTER, Articles 55(c),56, the Helsinki Accords.

Cases, International Law, Treaties, which in APPELLANT(S) opinion, sustain the jurisdiction of the Supreme Court of the United States, herein, include the following:

[28 USC 1252] McLucas v De Champlain, 421 U.S. 21, 31 (1975); U.S. v Bekins, 304 U.S. 27 (1938); International Ladies Garment Workers' Union v Donnelly Garment Co., 304 U.S. 243, 249 (1938); Fleming v Rhodes,

331 U.S. 100(1947); Reid v Covert, 351 U.S. 487, 489-490 (1956); Parker v Levy, 417 U. S. 733, 742,743 n.10(1974); Miner v Atlass, 363 U.S. 641 (1960); Jackson v Chesapeake & O Ry Co., 20 S.E. 2d 480, 493 (1942); Sanborn v Pacific Mutual Life Ins. Co., 108 P 2d (Cal 2d) 458, 461 (1941); Marbury v Madison, 1 Cranch 137, 177 (1803).

[28 USC 1254(1)] U.S. v Bankers' Trust Co., 240, 243 (1935); U.S. v United Mine Workers, 330 U.S. 258 (1947).

[28 USC 1254(2)] City of Detroit v Murray Corp, 355 U.S. 489, 492 (1958); City of New Orleans v Dukes, 427 U.S. 297, 301 (1976); Dutton v Evans, 400 U.S. 74, 76, n.6 (1970); Cox Broadcasting Corp v Cohn, 420 U. S. 469, 476-478, 480, 485-486 (1975); El Paso v Simmons, 379 U.S. 497, 501-503 (1965); Largent v Texas, 318 U.S. 418, 421-422 (1943).

[28 USC 1257(1)] Moore v Bay, 284 U. S. 4 (1931); Northern Pipeline v Marathon, 102 S Ct 2858 (1982); Fujii v State (of California), 242 P 2d (Cal 2d) 617 (1952); Flournoy v Weiner, 321 U.S. 253, 263 (1944); Ivanhoe Irrig Dist v McCracken, 357 U.S. 275 (1958).

[28 USC 1257(2)] Moore, supra; Northern, supra; Fujii, supra; Williams v Bruffey, 96 U.S. 176, 183 (1877); Lathrop v Ponohue, 367 U.S. 820, 825 (1961).

[28 USC 1257(3)] Moore, supra; Norther, supra; Fujii, supra; Diamond Nat'l Corp v State Bd of Equalization, 425 U.S. 268 (1976); Jones v Alfred H. Mayer Co., 392 U.S. 409, 440, 443-444 (1968); Griffin v Breckenridge, 403 U.S. 88, 104-105 (1971); Geofroy v Riggs, 133 U.S. 258, 266, 267, (1890); The Cherokee Tobacco, 78 U.S. (11 Wall) 616, 620-621 (1871); Reid, supra;

Brown v Bd of Education, 347 U.S. 483 (1954); Clyatt v U.S., 197 U.S. 207, 215-216 (1905); U.S. v Belmont, 301 U.S. 324, 331 (1937); the Case of Jurisdiction of the Courts of Danzig (Treaties confer rights directly upon individuals), I.C.J., Series B, No.15, p.17 (1928); I.C.J. Reports (On the Fundamental Rights of the Human Person) 1970, p.32; SEE Lauterpaucht, International Law and Human Rights (1950), pp.6-14, p.6, n.2; McDougal and Behr, 58 Amer Jour Int Law (1964),pp.603-641; 11 Howard Law Jour, Spring, 1965, pp.275-290 ("The International Protection of National Minorities and Human Rights," Rodolfo de Novo), pp.452-462 ("The Nature and Dimensions of Human Rights in the United States," Clarence Clyde Ferguson, Jr.).

[TREATIES-MULTILATERAL] U.N. CHARTER, Articles 55(c), 56, APPDX p.117 ; UNIVER-

SAL DECLARATION OF HUMAN RIGHTS ("LAW OF NATIONS") U.N. Doc A/811, December 10, 1948, Articles 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 17, 18, 19, 20, 23, 26, 28, 30; MULTILATERAL TREATY ON ABOLITION OF SLAVERY...INSTITUTIONS & PRACTICES SIMILAR TO SLAVERY, Executive L, 88th Cong-1st Sess, September 7, 1956, Geneva, Switzerland, ratified November 2, 1967 U.S. Senate, in force December 6, 1967, Articles 1(a), 2, 5, 7 (a)(b), 8, 9, 10, APPDX p.118, APPDX p.123, respectively. Jurisdiction of the Courts of Danzig, supra; I.C.J. Reports 1970, p.32, supra; South-West Africa Cases (Second Phase) [Dissenting Judgment of Judge Tanaka, I.C.J.] Reports of Judgments, I.C.J., 1966, pp.284-316.

[28 USC 2103] Cox, supra; Palmore v U.S., 411 U.S. 389 (1973); Cantwell v Conn, 309 U.S. 626 (1939).

[42 USC 1981, 1982, 1983, 1985] Helsinki Accords (Treaty). All persons have an equitable interest in all land and a right to clear Record of Transfer of Title of Land and a right to a permanent and public Record in a superior Court of Record.

[FINALITY OF JUDGMENT] Cohen v Beneficial Loan Corp, 337 U.S. 541, 546 (1949); Burns v Ohio, 360 U.S. 252, 254-257 (1959); Eisen v Carlisle, 417 U.S. 156, 171 (1974); Gillespie v U.S. Steel Corp, 379 U.S. 148, 152 (1974); Matthew v Elridge, 424 U.S. 319, 331, n.11 (1976); Cole v Violette,319 U.S. 581, 582 (1943).

CONSTITUTIONAL, TREATY, STATUTORY PROVISIONS

The herein CONSTITUTIONAL, TREATY, STATUTORY PROVISIONS are quoted verbatim in the APPENDICES as follows:

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## UNITED STATES CONSTITUTION


| | |
|---|---|
| ARTICLE I | A. 112 |
| Sec.1 | A. 112 |
| Sec.8 cl 1.3 | A. 112 |
| Sec.10 | A. 112 |
| ARTICLE III | A. 113 |
| Sec.1 | A. 113 |
| Sec.2 | A. 113 |
| ARTICLE IV | A. 114 |
| Sec.1 | A. 114 |
| Sec.2 | A. 114 |
| ARTICLE VI cl 2 | A. 114 |
| FIRST AMENDMENT | A. 114 |
| FOURTH AMENDMENT | A. 115 |
| FIFTH AMENDMENT | A. 115 |
| SIXTH AMENDMENT | A. 115 |
| SEVENTH AMENDMENT | A. 116 |
| EIGHTH AMENDMENT | A. 116 |
| ELEVENTH AMENDMENT | A. 116 |
| THIRTEENTH AMENDMENT | A. 116 |

FOURTEENTH AMENDMENT A. 113

UNITED NATIONS CHARTER (TREATY)

ARTICLES 55(c), 56 A. 117

UNIVERSAL DECLARATION OF HUMAN RIGHTS

"LAW OF NATIONS"

ARTICLES 1, 2, 3, 4, 5 A. 118

ARTICLES 6, 7, 8, 9, 10 A. 119

ARTICLES 11, 12, 13 A. 120

ARTICLES 14, 15, 17, 18, 19 A. 121

ARTICLES 20, 23, 26, 28, 30 A. 122

MULTILATERAL TREATY

ON THE ABOLITION OF SLAVERY...

INSTITUTIONS & PRACTICES

SIMILAR TO SLAVERY

ARTICLES 1(a), 2 A. 123

ARTICLES 5, 7(a) & (b) A. 124

ARTICLES 8, 9, 10 A. 125

FEDERAL STATUTES

11 USC 105 A. 152

11 USC 541(a) A. 151

11 USC 363(b),(n) A. 151

15 USC 1631 A.126

(effective October 1, 1982)

15 USC 1631 A.127

(effective until October 1, 1982)

15 USC 1635(a) & (b) A.128

28 USC 455(a), (b)(1) A.133

28 USC 2072 A.132

42 USC 1981 A.129

42 USC 1982 A.130

42 USC 1983 A.130

42 USC 1985 A.130

FEDERAL RULES OF CIVIL PROCEDURE

FRCP 1, 2, 3 A.134

FRCP 4(a), 8(a) A.135

FRCP 38(a), (b), 39(a) A.136

FRCP 43(a), 52(a) A.137

FRCP 41(a), 53(a) A.138

FRCP 53(b), 53(e) A.139

FRCP 54(a) A.139

FRCP 54(b) A.140

FRCP 55 A.140

FRCP 83 A.141

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Emergency Resolution Governing

Bankruptcy Proceedings (1982)J.S.p.35

FEDERAL RULES OF APPELLATE PROCEDURE

FRAP 1(a), (b) A.142

FRAP 27(c) A.142

FRAP 27(d) A.143

FRAP 47 A.143

FEDERAL RULES OF BANKRUPTCY

BR RULE 6009 A.148

BR RULE 6007 (a), (b) A.148

BR RULE 6004 (a), (e)

[Old BR RULE 606(b)(2)] A.149

BR RULE 2002(a)(c) A.150

CALIFORNIA BANK & CORP TAX LAW

REVENUE & TAX CODE

Cal Rev & Tax Code §23302 A.144

Cal Rev & Tax Code §23304 A.144

Cal Rev & Tax Code §23571 A.144

## CALIFORNIA CIVIL CODE


CCC §1265 A. 144

CCC §1549 A. 144

CCC §1550 A. 145

CCC §1558 A. 145

CCC §2920 A. 145

CCC §2922 A. 145


## CALIFORNIA CODE OF CIVIL PROCEDURE


CCP §83 A. 145

CCP §86 A. 145

CCP §410.10 A. 146

CCP §418.10 A. 146

CCP §803 A. 147


## CALIFORNIA PENAL CODE


CPC §419 A. 147

CPC §1024 A. 148


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## STATEMENT OF THE CASE

The STATEMENT OF THE CASE, Facts and Proceedings in Federal and State Cases involved in the herein direct Appeal from the March 7, 1986 published OPINION of Ninth Circuit Judge FARRIS, King et al v California et al, (CA9 NO.83-6427, USDC C CA NO.CV83-5901R) 734 F 2d 910 (9th Cir 1986) were fully and fairly set forth in the lead, related United States Supreme Court(U.S. S.C.) Case, from denial of a February 5, 1984 Orginal PETITION FOR WRIT OF PROHIBITION/ MANDAMUS by the Ninth Circuit on April 10, 1984, King et al v Real, USDC C CA, Brosnan, Russell, Elliott, et al, ex rel Integrity Home Loan Co., Inc., Kaplan, (U.S. S.C. NO. 84-695 A-21, CA9 NO.84-7097, USDC C CA NO. CV83-5901R) 105 S Ct Rptr 768 no.5 (1984)

On or about August 11, 1984, JURISDICTIONAL STATEMENT NO.84-695 A-21, King et al

v Real et al, supra, with attached APPENDICES ("84 JS" or "84 APPDX"), (served on all parties required to be served on August 7, 1984) was docketed in the Supreme Court of the United States.

On or about January 7, 1985, King et al v Real et al, supra, (U.S. S.C. NO.84-695, CA9 NO.84-7097, USDC C CA NO.CV83-5901R) was dismissed for lack of jurisdiction, Certiorari denied.

On or about March 25, 1985, APPELLANT(S) PETITION FOR REHEARING in King et al v Real et al, supra, was denied, and the instant Case submitted on Briefs Jan 07,1986.

APPELLANT(S) in the herein direct Appeal from the March 7, 1986 published OPINION of Ninth Circuit Judge FARRIS, King et al v California et al, supra, respectfully request this Supreme Court of the United States to take Judicial Notice of the Facts

and Proceedings in the Federal and State Court Cases, fully and fairly set forth in the above described related Federal Case, King et al v Real, USDC C CA, Brosnan, Russell, et al, ex rel Integrity, Inc., Kaplan, (U.S. S.C. NO.84-695, CA9 NO.84-7097, USDC C CA NO.CV83-5901R), supra, involving substantially the same parties, the same subject matter (28 USC 1334, 15 USC 1601 et seq, TILA, Reg Z, 12 CFR 226), the same Bankruptcy res, 4401 Don Diablo Drive, Los Angeles, California 90008. 84 JS pp. -i- through -xii-, pp.4 through 65; 84 APPDX pp.1-A through 41-A.

SUMMARY OF PERTINENT FACTS AND PROCEEDINGS:

This Court is requested to take Judicial Notice that in the L.A. Times at all times mentioned herein, INTEGRITY, INC., held itself out to the pub-

lic at large as a "Loan Broker," not a "Lender."

On or about January 1, 1979, APPELLANT owed about $20,000.00 on a First Trust Deed, secured by a Promissory Note, Loan No.0-145537-9 with GREAT WESTERN SAVINGS, A Federal S & L, and about $10,000.00 on a Second Trust Deed, secured by a Promissory Note, on the above described Bankruptcy res, Estate, valued then at some $180,000.00.

On or about January 1, 1979, APPELLANT, a Black woman, self-employed, without liquid assets or cash, had some $150,000.00 equity in her home and land, the only qualification stated in the L.A. Times Ad of INTEGRITY, INC.

On or about January 1, 1979, APP-

ELLANT made an application for a loan, and was told that no Lender was available at that time, but it would be neccesary to sign some "worksheets", including the Federal Disclosure Statement, a blank Trust Deed, so that when a Lender was found, the loan could be processed swiftly--no Promissory Note was signed by APPELLANT, no consideration passed from INTEGRITY, INC. to APPELLANT, or vice versa, on January 1, 1979, and no secured interest was created in APPELLANT'S home and land pursuant to 15 USC 1601 et seq, TILA, Reg Z, 12 CFR 226, California Civil Code ("CCC") §§ 1549, 1550, 1558, 2920, 2922. APPDX p. 127, 144, 145.

The mandatory Federal Disclosure Statement of INTEGRITY, INC. has a printed statement at the top which identifies it as an "Arranger" and states an "Arranger is a Lender " or words to that effect, but they told

APPELLANT on January 1, 1979, on March 27, 1981, on November 17, 1981, that INTEGRITY, INC. was not the "Lender," that no Lender was known at that time, and they further wrote in handwriting "No Lender is known at this time" and that when one was found, APPELLANT would be informed by them, under the above described printed statement, on each of the above dates--and no consideration was passed on each of the above dates, and no Promissory Note(s) was signed by APPELLANT in favor of INTEGRITY, INC. or anyone else on each of the above dates, and the Trust Deed(s) on each of the above dates were signed in blank. APPDX pp. 127, 144, 145.

Sometime after January 1, 1979, APPELLANT received a check from INTEGRITY, INC. but no billing information or the name of the true Lender, and APPELLANT checked the public record and found that the blank Trust

Deed she had signed on January 1, 1979, above described, had been filled in with the name of LAWRENCE GREENBERG, M.D., INC. as the Lender and Beneficiary with INTEGRITY, INC.'s Address, and APPELLANT began sending payments to LAWRENCE GREENBERG, M.D., INC. c/o INTEGRITY, INC.

At that point, INTEGRITY, INC., by letter, informed APPELLANT that payments should be made out to INTEGRITY, INC., not the Lender and Beneficiary on the recorded Trust Deed, and APPELLANT objected, by letter, informing them that the Lender would claim he was not paid.

The above described procedure, dispute, exchange of letters, occurred with the March 27, 1981 loan from NORMAN CANTOR, M.D.--no consideration passed on March 27, 1981, it was sometime after that APPELLANT received any consideration, the "worksheets" were

signed in blank, APPELLANT signed no Promissory Note, INTEGRITY, INC. in handwriting,March 27, 1981, as on January 1, 1979, wrote on the mandatory Federal Disclosure Statement, "The Lender is unknown at this time" and that APPELLANT would be informed of the name of the true Lender(s) when ascertained, APPELLANT checked the public record and found the name of NORMAN CANTOR M.D., and began without request, to make payments to NORMAN CANTOR, M.D.; INTEGRITY INC., by letter objected as above, and APPELLANT by letter stated that if she did not make the payments to the recorded "Beneficiary" NORMAN CANTOR, M.D., he could claim APPELLANT did not pay <u>him</u>, and that he did not authorize payments to INTEGRITY, INC., in his place and stead.

On November 17, 1981, the same above described scenario occurred--and no con-

sideration passed from INTEGRITY, INC. to APPELLANT, or vice versa, the "worksheets" were signed in blank, APPELLANT signed no Promissory Note in favor of INTEGRITY, INC. or anyone else on November 17, 1981, the mandatory Federal Disclosure Statement, in handwriting stated "The Lender is unknown at this time" and upon ascertaining the name of the true Lender, APPELLANT would be informed by INTEGRITY, INC. APPDX 127,144,145.

On or about December 7, 1981, INTEGRITY, INC. informed APPELLANT that they still had not found a Lender for the loan applied for November 17, 1981 to pay off the March 27, 1981 loan of NORMAN CANTOR, M.D., but if APPELLANT would sign a Statement excusing INTEGRITY, INC. for the delay, McCARRON, President,would make a personal unsecured loan, on December 7, 1981.

On December 7, 1981, a Statement was

dictated to APPELLANT by a man Clerk of INTEGRITY, INC. that APPELLANT would hold harmless INTEGRITY, INC. for delay of the November 17,1981 applied-for loan, and APPELLANT would waive her 3-day right to rescission whenever the full loan of some $32,000.00 was obtained; and APPELLANT was told that unless she wrote and signed that statement she could not receive the advance unsecured loan of some $10,000.00.

On December 1, 1981, the corporate franchise of "California Corporation" R & T FINANCIAL SERVICING CO.,INC., Trustee in Foreclosure ("R & T CO., INC."), which INTEGRITY, INC. and their Lenders use, was suspended, pursuant to California Bank & Corporation Tax Law, Revenue & Tax Code ("CTL") §§23302 , 23571, 23304. APPDX p.144 which fact was unknown to APPELLANT, but known to INTEGRITY, INC. on December 7,

1981, and to the public September 14, 1983.

On December 10, 1981, INTEGRITY, INC. recorded Trust Deed No.81-1214615 which APPELLANT had signed in blank on November 17, 1981, with the names of LONNIE KAPLAN, SIMA KAPLAN as alleged Beneficiaries as of November 17, 1981, and the name of R & T CO., INC. as alleged Trustee in Foreclosure, all in violation of 15 USC 1601 et seq, TILA, Reg Z, 12 CFR 226, specifically 15 USC 1631. APPDX p.127, further, in violation of CCC §§ 1549, 1550, 2920, 2922.

On or about June , 1982, unknown to APPELLANT, NORMAN CANTOR, M.D. substituted McCARRON as Trustee on the March 27, 1981 Trust Deed that LONNIE & SIMA KAPLAN were to have paid off by Trust Deed No.81-I214615, above described, and about June 1982, INTEGRITY, INC., McCARRON purported to execute a RECONVEYANCE DEED for the

March 27, 1981 Trust Deed of CANTOR, M.D.

On or about July 28, 1982, NORMAN CANTOR, M.D. recorded a NOTICE OF DEFAULT claiming LONNIE & SIMA KAPLAN did not pay off the March 27, 1981 loan, as recited in Trust Deed No.81-1214615, and thereafter LONNIE & SIMA KAPLAN filed a NOTICE OF DEFAULT, both claiming APPELLANT owed them.

From about July, 1982 to October,1982 APPELLANT tried to obtain the names of the true Lenders of the three (3) above described loans, and what had occurred and was occurring, and why APPELLANT had four (4) Trust Deeds recorded against her home and land which was keeping her from utilizing at least $100,000.00 in equity by refinancing--to no avail.

On about October 18, 1982, APPELLANT filed an 11 USC CHAPTER 13 Bankruptcy Petition, In re King, Case No.LAX82-17781BR,

disputing the validity of each of the above three (3) Trust Deeds, dated January 1, 1979, March 27, 1981, November 17, 1981, respectively, above described.

On or about November 29, 1982, INTEGRITY, INC., LONNIE & SIMA KAPLAN, CAPRICE L. COLLINS, ESQ., filed in the 11 USC CHAPTER 13 Bankruptcy Case No.LAX82-17781BR, Adversary Case No.LAX82-43130BR, Integrity, Inc., Lonnie & Sima Kaplan v Gwendolyn L. King aka Gwendolyn L. Greene aka Gwen Greene, requesting relief from Automatic Stay, and leave to foreclose on their interest in APPELLANT'S permanent residence, stating inter alios, that APPELLANT had no equity in her home and land, pursuant to 11 USC 362. 84 APPDX p.6-A.

On or about December 3, 1982 a Summons and Notice of Trial was issued in the above described 11 USC CHAPTER 13 Adver-

sary Case No.LAX82-43130BR, with Trial set for December 27, 1982 at 9:00 a.m. before the Hon. BARRY RUSSELL, Article I Bankruptcy Consultant Judge. 84 APPDX p.6-A.

On or about December 22, 1982, APPELLANT had served, and filed in the above 11 USC CHAPTER 13 Adversary Case No.LAX82-43130BR, an ANSWER denying each and every allegation in the above described Complaint especially that she had no equity in her permanent residence ($100,000.00+ equity) and further as affirmative defenses, inter alios, APPELLANT claimed (1) Failure of consideration from both INTEGRITY, INC., and LONNIE & SIMA KAPLAN regarding Trust Deed No.81-1214615, (2) Statute of Frauds, a COUNTER-COMPLAINT, Gwendolyn L. King v Integrity, Inc. et al, alleging inter alios (1) Breach of Contract [Trust Deed No.81-1214615], (2) Slander of Title, (3) Consp-

iracy to Slander Title, (4) Violation of Civil Rights, 42 USC 1981, 1982, 1983, 1985, and DEMAND FOR JURY TRIAL, Rule 38 (a)(b), FRCP, and REQUEST FOR TRANSFER TO USDC C CA FOR TRIAL. 84 APPDX p.6-A.

On or about December 24, 1982, USDC C CA Chief Judge MANUEL L. REAL in consensus with the other USDC C CA Judges, in anticipation of the Mandate of the Supreme Court of the United States in Northern Pipeline v Marathon, 102 S Ct 2858 (1982) purported to draft and promulgate as a "LOCAL RULE GOVERNING BANKRUPTCY CASES AND PROCEEDINGS (a) Emergency Resolution:

> The purpose of this rule is to supplement existing law and rules in respect to the authority of bankruptcy judges of this district to act in bankruptcy cases and proceedings until Congress enacts appropriate remedial legislation in response to the Supreme Court's decision in Northern Pipeline Construction Co. v. Marathon Pipe Line Co., U.S., 102 S Ct 2858 (1982), or until March 31,

1984, whichever first occurs.

The judges of the [USDC C CA] District Court find that exceptional circumstances exist. These circumstances include: (1) the unanticipated unconstitutionality of the grant of power to bankruptcy judges in Section 241(a) of the Bankruptcy Act of 1978; (2) the clear intent of Congress to refer bankruptcy matters to bankruptcy judges; (3) the specialized expertise necessary to the determination of bankruptcy matters; and (4) the administrative difficulty of the [USDC C CA] District Court's assuming the existing bankruptcy caseload on short notice.

Therefore, the orderly conduct of the business of the [USDC C CA] court requires this referral of bankruptcy cases to the [Article I] bankruptcy judges." USDC C CA LOCAL RULES 1982

On the morning of December 27, 1982, USDC C CA Chief Judge MANUEL L. REAL, purported to "deputize" the USBC C CA Article I Bankruptcy Judges with Article III attributes status quo ante Northern, supra, at 9:00 a.m. APPDX pp.112, 113, 114, 132,141.

On the morning of December 27, 1982, in the above described 11 USC CHAPTER 13 Adversary Case No.LAX82-43130BR, Integrity,

Inc., Lonnie & Sima Kaplan v Gwendolyn L. King etc., and Gwendolyn L. King v Integrity, Inc. et al, Plaintiffs/Defendants INTEGRITY, INC., LONNIE & SIMA KAPLAN, had not answered APPELLANT'S COUNTER-COMPLAINT, and were not present in Court, nor was CA-PRICE L. COLLINS, ESQ., their Attorney of Record, and APPELLANT again requested a transfer to the USDC C CA in the light of the December 25, 1982 Mandate of Northern Pipeline, supra, and objected to the assumed jurisdiction of the Hon. BARRY RUSSELL, Article I Bankruptcy Consultant Judge over the COMPLAINT and COUNTER-COMPLAINT, above described.APPDX pp.115, 136-140.

On the morning of December 27, 1982, Judge RUSSELL agreed he had no jurisdiction over the COUNTER-COMPLAINT, and stated he was dismissing it, and granting the Plaintiffs/Defendants INTEGRITY, INC.,

LONNIE & SIMA KAPLAN leave to perfect foreclosure on their interest in APPELLANT'S permanent residence, 4401 Don Diablo Drive, Los Angeles, California 90008.

On January 6, 1983, in 11 USC CHAPTER 13, Adversary Case No.LAX82-43130BR, Integrity, Inc., Lonnie & Sima Kaplan v Gwendolyn L. King, and Gwendolyn L. King v Integrity, Inc. et al, an ORDER dated December 29, 1982,/s/Barry Russell, was entered as follows:

"CAPRICE L. COLLINS...
Ent Jan 06'83

UNITED STATES BANKRUPTCY COURT
CENTRAL DISTRICT OF CALIFORNIA

| | |
|---|---|
| In Re:<br>GWENDOLYN L. KING,<br>etc.<br>Debtor(s) | Bankruptcy No.<br>LAX82-17781BR |
| INTEGRITY HOME LOAN CO., INC. and LONNIE KAPLAN & SIMA KAPLAN<br>Plaintiff,<br>vs.<br>GWENDOLYN L. KING etc and ELSIE DAVIS, TRUSTEE Defendant(s) | Adversary No.<br>LAX82-43130BR<br>ORDER GRANTING LEAVE TO FORECLOSE AND RELIEF FROM STAY |

Trial on Plaintiff's Request for Relief from Automatic Stay came on regularly on December 27, 1982, 9:00 a.m. Courtroom "A" of the above-entitled Court. Plaintiff was represented by its counsel, Caprice L. Collins; Defendants/Debtors were represented.

The Court having considered the evidence, court record, and oral argument advanced, made its Order as follows;

> IT IS HEREBY ORDERED, ADJUDGED AND DECREED:
>
> (1) That Plaintiff is permitted to perfect foreclosure proceedings on the subject property generally described as 4401 Don Diablo Drive, Los Angeles, California, 90008; and
> (2) That all restraining orders and automatic stays with respect to this proceeding and to any subsequent Chapter proceedings which involve the subject property and the defendant(s) herein and/or their assignee(s) or successor(s) in interest are hereby vacated, extinguished and terminated.

DATED: DEC 29, 1982

/s/Barry Russell
U.S. Bankruptcy Judge"

84 JS pp.1-11, 84 APPDX pp.1-A through 6-A.

On January 11, 1983, APPELLANT had

served and filed a NOTICE & MOTION FOR LEAVE TO FILE APPEAL IN FORMA PAUPERIS, with Hearing set for January 21, 1983 at 2:00 p.m. before Bankruptcy Judge RUSSELL.

On January 11, 1983 without NOTICE or Hearing, Judge RUSSELL denied the above MOTION FOR LEAVE TO FILE APPEAL...

On January 21, 1983, at 2:00 p.m., APPELLANT appeared in Courtroom "A" for the Hearing on the above MOTION, and without explanation in open Court, Judge RUSSELL summoned a Security Guard to force APPELLANT from the Courtroom, which the Security Guard refused to do, as APPELLANT was not engaged in any unlawful or disruptive activity, but merely sitting quietly waiting for the Hearing, which Judge RUSSELL announced would not occur, and APPELLANT left.

On or about January 21, 1983, APPELLANT borrowed money, paid fees and filed a

NOTICE OF APPEAL TO THE USDC C CA, and a NOTICE OF APPEAL TO THE NINTH CIRCUIT BAP, from the above ORDER dated Dec 29, 1982, /s/Barry Russell, U.S. Bankruptcy Judge.

On or about March 22, 1983, JACK WAGNER, Clerk of the USBC C CA purported to "unfile" the above January 21, 1983 NOTICE OF APPEAL TO THE USDC C CA, by returning the Original filed NOTICE OF APPEAL mixed with some other Original pleadings from someone else's Bankruptcy Case.

On or about March 22, 1983, BERNADINE GORDON, a Clerk of the USBC C CA, and APPELLANT is informed and believes, and alleges, a cousin of LONNIE KAPLAN, purported to close 11 USC CHAPTER 13 Adversary Case No.LAX82-43130BR. 84 APPDX p.6-A.

APPELLANT was unable to find out the disposition of the NOTICE OF APPEAL TO THE NINTH CIRCUIT BAP, after many telephone

calls, though a Return Receipt for Certified Mail indicated said NOTICE OF APPEAL was received in the NINTH CIRCUIT.

On April 04, 1983, under the above described facts and circumstances, APPELLANT filed 11 USC CHAPTER 7 Bankruptcy Petition No.SA83-01703PE, In re King, therein disputing that on January 1, 1979, March 18, 1981, November 17, 1981, any or all or some of the following were Bona Fide Creditors and/or had a secured interest in her permanent residence, home and land, 4401 Don Diablo Drive, Los Angeles, California 90008: LAWRENCE S. GREENBERG, M.D., INC., NORMAN CANTOR, M.D., LONNIE & SIMA KAPLAN, INTEGRITY, INC., respectively.

In April, 1983, APPELLANT first learned that since December 1, 1981, the corporate status, power, authority, of R & T FINANCIAL SERVICING CO., INC., to act as Trustee

in Foreclosure or conduct any intrastate activity as a "California Corporation" had been suspended by the STATE OF CALIFORNIA ("STATE") pursuant to California Bank & Corporation Tax Law, Revenue & Tax Code ("CB & CTL") §§ 23302 , 23571. APPDX p.144 ; and so informed the STATE ATTORNEY-GENERAL JOHN K. VAN DE KAMP ("STATE AG") that in violation of CB & CTL §§ 23302., 23571, R & T FINANCIAL SERVICING CO., INC. ("R & T CO., INC.") was continuing to advertise as a "California Corporation" and continuing to record documents as said Corporation and continuing to conduct Foreclosure Sales as said Corporation, and continuing to issue Trustee's Deed(s) Upon Sale as said Corporation (and is continuing at the present time, 1986 and they say until and unless a Court Order stops them, they will continue), and that APPELLANT was in danger of losing

her permanent residence, home and land, as well as others, by the unlawful activities of defunct R & T CO., INC., even after she had filed an 11 USC CHAPTER 7 Bankruptcy Petition, In re King, No.SA83-01703PE on April 04, 1983.

On May 23, 1983, APPELLANT received from INTEGRITY, INC., NOTICE OF RIGHT TO RESCIND and three (3) RESCISSION FORMS pursuant to 15 USC 1635 (a) & (b), TILA, 12 CFR 226 for LAWRENCE S. GREENBERG, M.D., INC., NORMAN CANTOR, M.D., LONNIE & SIMA KAPLAN (applied-for-loans dated January 1, 1979, March 18, 1981, November 17, 1981, respectively) APPDX pp. 127, 128 .

On May 26, 1983, APPELLANT, pursuant to 15 USC 1631 (1968 Act May 29, 1968 P.L. 90-321, Title I Chap §115 as added October 28, 1974 P.L. 93-495 Title IV §413(a) 88 Stat 1520 [effective until Oct 1, 1982])

and 15 USC 1635 (a) & (b), Sosa v Fite (CA 5 1974) 498 F 2d 114, rescinded en pais, the above three (3) alleged dated loans. Douglas v Beneficial Finance Co. (D.C Alas. 1971) 334 F Supp 1166; SEE: Boyd, "The Federal Consumer Protection Act-A Consumer Perspective," 45 Notre Dame Law, n.2 at 191 n.159, Sparhawk v Yerkes(1891) 142 U.S. 915.

On or about June 18, 1983, CAPRICE L. COLLINS, ESQ., without Service, filed in 11 USC CHAPTER 7 Bankruptcy Case No.SA83-01703 PE, In re King, filed April 04, 1983, an 11 USC 362 Adversary Complaint No.SA83-2194PE, Integrity, Inc., Lonnie & Sima Kaplan v Gwendolyn L. King, with Hearing set for Jul 12, 1983 before Bankruptcy Judge PETER ELLIOTT.

On July 11, 1983, in 11 USC CHAPTER 7 Case No.SA83-01703PE, above described, minutes before APPELLANT was granted a Dis-

charge of all debts, the above described 11 USC CHAPTER 7 Adversary Complaint No. SA83-2194PE was dismissed for lack of Service, and subsequent APPELLANT was granted the above Discharge on July 11, 1983.

On or about August 30, 1983, INTEGRITY, INC., LONNIE & SIMA KAPLAN, R & T CO., INC. set September 14, 1983 as date of Foreclosure Sale on APPELLANT'S Bankruptcy Estate, permanent residence, home and land valued at some $200,000.00 (APPELLANT equity of some $150,000.00+), 11 USC CHAPTER 7 Case NO.SA83-01703PE, above described.

On or about August 30, 1983, for herself and on behalf of all others similarly situated, APPELLANT filed a verified Complaint with the STATE, STATE AG, pursuant to California Code of Civil Procedure §803 ("CCP") requesting the STATE AG to bring QUO WARRANTO PROCEEDINGS against Dec 1 '81

defucnt "California Corporation" R & T CO., INC. Trustee in Foreclosure, which request was refused and such refusal is continuing.

On September 14, 1983, under the above described facts and circumstances, APPELLANT filed the herein verified Civil Complaint, King et al v California et al, supra, for herself, and on behalf of all others similarly situated--requesting therein inter alios, (1) LEAVE TO AMEND, (2) A JURY TRIAL, (3) A MANDATORY PRELIMINARY & PERMANENT INJUNCTION AGAINST THE STATE, STATE AG ENJOINING THEM TO BRING QUO WARRANTO PROCEEDING, CCP §803, AGAINST DEFUNCT R & T CO., INC., (4) TO ENJOIN DEFUNCT R & T CO., INC. FROM PURPORTED TRUSTEE'S SALE OF APPELLANT'S BANKRUPTCY ESTATE, HOME & LAND,(5) STATUTORY DAMAGES FOR ALL APPELLANT(S) UNDER 15 USC 1601 et seq (15 USC 1631), TILA, 12 CFR 226, (6) ACTUAL DAMAGES.

Nothwithstanding Service of the above described September 14, 1983 SUMMONS & COMPLAINT in USDC C CA Case No.CV83-5901R, King et al v California et al, supra, CAPRICE L. COLLINS, ESQ., Integrity, Inc., Lonnie & Sima Kaplan, went to USBC C CA Bankruptcy Judge PETER ELLIOTT and purported to "refile" 11 USC CHAPTER 7 Adversary Case NO.SA83-2194PE, and obtain a DEFAULT JUDGMENT, and ORDER allowing defunct R & T CO., INC. to sell APPELLANT'S home and land to them for no cash, pro tanto Trust Deed No.81-1214615, in violation of Bankruptcy Rule 606(b)(2), and thereafter they filed in the Los Angeles Municipal Court on January 5, 1984, an Unlawful Detainer Complaint No.A65170CS, alleging inter alios, that there were "Trials" in 11 USC CHAPTER 13 Case No.LAX8-43130BR, 11 USC CHAPTER 7 Case NO.SA83-2194PE , they were

adjudicated as Bona Fide Creditors of APP-ELLANT under Trust Deed No.81-1214615, and they further alleged that as of January 5, 1984, USDC C CA Case No.CV83-5901R had been dismissed, and on April 19, 1984, one day before they had any ORDER from the LAMC, and while the matter was before the Cal S Ct, Case NO.B004133, LONNIE & SIMA KAPLAN, and the Los Angeles Sheriffs broke into APPELLANT'S permanent residence, the LAMC ORDER, made Coram Non Judice by LAMC Judge CLARENCE STROMWALL dated April 20, 1984, directed to the Los Angeles Sheriffs and never executed--and the April 19, 1984 illegal break-in, was basis of the second illegal break-in September 1, 1984 by LONNIE & SIMA KAPLAN and the Los Angeles City Police on September 1, 1984, and subsequent prosecution and alleged "conviction" of APPELLANT on September 24, 1984, date of

Arraignment, by LAMC Judge DAVID M. KINNEY, without formal charge against APPELLANT for alleged violation of CPC §419 on September 1, 1984, without plea entered under CPC §1024 of "NOT GUILTY" by said LAMC Judge, without the presence of any witnesses, including the alleged Citizens Arrestors, LONNIE KAPLAN, SIMA KAPLAN, without Trial of any kind--APPELLANT simply told by said LAMC Judge, to show up on September 25, 1984 at 1:30 p.m. for Sentencing. APPDX pp.29-101, 148-150.

On September 25, 1984, before 1:30 p.m., APPELLANT filed in the USDC C CA, 28 USC 1446 REMOVAL PETITION, CR84-906 (formerly LAMC Criminal Case No.31303105) and thereafter, before 1:30 p.m., filed in the LAMC a copy of said REMOVAL PETITION. APPDX pp.102-110.

On October 04, 1984, L.A. City Att-

orneys IRA REINER, ESQ., ARTHUR WALSH, ESQ., filed an un-Noticed MOTION TO REMAND in USDC C CA NO.CR84-906TJH (LAMC Criminal No. 31303105) King v California, Kaplan, tacitly set for Hearing on October 09, 1984 before USDC C CA Judge TERRY J. HATTER, JR.

On October 09, 1984, without Notice to APPELLANT, without Hearing, USDC C CA Judge HATTER, JR., remanded LAMC Criminal Case No.31303105 by ORDER dated October 16, 1984. APPDX pp.106-110.

On October 18, 1984, pursuant to 28 USC 1252, APPELLANT appealed to the U.S. S.C. , said Appeal to be appended to the lead Case, King et al v Real, USDC C CA et al, supra, A-21, and/or the September 04, 1984 Case, King v Stromwall, LAMC, Kaplan, A-20, above described, which Appeal was not appended. APPDX p.104.

On October 18, 1984, LAMC Judge

DAVID M. KINNEY issued an Arrest Warrant for APPELLANT for alleged "non-appearance" on or about October 03, 1984, and transmitted said Arrest Warrant to the L.A. City Police, and said Arrest Warrant is still outstanding. APPDX p.100.

On or about June 24, 1984, pursuant to International Law, Multilateral Treaty on Abolition of Slavery, Institutions and Practices Similar to Slavery, Articles 1 (a), 2, 5, 7(a) & (b), 8, 9, 10, APPDX p.123, p.124, p.125, APPELLANT escaped from the State of California to the free State of Arizona, and under said Treaty, is free, with Title to her home and land, Bankruptcy Estate, USBC C CA 11 USC CHAPTER 7 Liquidation Petition No.SA83-01703PE, In re King, vested in USDC AZ Case No.CIV85-1698PHX-PGR(WEC), King etc. v Russell, Kaplan, et al, supra.

## FEDERAL AND INTERNATIONAL LAW ISSUES HEREIN ARE SUBSTANTIAL

The OPINION of Ninth Circuit Judge FARRIS states "Title to King's home remains vested in the bankruptcy trustee" APPDX p. 3, but Title to the Land of APPELLANT(S) is the paramount issue herein, and said issue is of International import, for the reason that all persons in the world have an equitable interest in all land in the world, have a right to know from a "Superior" Court of Record,legal transfer of Title to Land so that there are not "secret land dynasties" which would virtually make slaves of people on the land--therefore no one must be arbitrarily or illegally dispossessed of Land in the world. APPDX pp.117, 118-121, 123-125

The named APPELLANT herein, is a poor, Black woman, descendant of those "forced immigrants" to America, circa 1619, recipient of those badges and incidents of Black

slavery, not likely to be eradicated in this 20th Century, one of a "suspect" group, "colored" minority, deserving of strict application of the Fifth, Sixth, Seventh, Thirteenth, Fourteenth, Amendments, of the United States Constitution, and under Article VI clause 2, protection of human rights under the U.N. Charter (Treaty), Multilateral Treaty on Abolition of Slavery...Institutions and Practices Similar to Slavery, "LAW OF NATIONS", herein APPDX pp.117, 118-122, 123-125, 126-127, 128-133. Case of Jurisdiction of the Courts of Danzig, I.C.J. Series B, No.15, p.17; I.C.J. Reports 1970, p.32; I.C.J. Reports 1962, p.346, Judgment on South-West Africa Cases; Edye v Robertson, 112 U.S. 580, 598 (1884); Brown v Bd of Educ. 347 U.S. 483 (1954); SEE Jessup, Philip C., A MODERN LAW OF NATIONS, pp.137, 182; Helsinki Accords.

APPELLANT(S) are entitled herein to a

social order which recognizes and respects time-honored doctrines of "separation of powers", Marbury v Madison, 1 Cranch 137, 177 (1803); Scheter Poultry Corp v U.S., 295 U.S. 495 (1935); American Brake Shoe & Foundry Co. v Interborough Rapid Transit Co., (DC NY 1932) 1 F Supp 820; "due process", North Georgia Finishing, Inc. v Di-Chem, Inc., 419 U.S. 601 (1975); Fuentes v Shevin, 407 U.S. 67 (1972); Sniadach v Family Finance Corp., 395 U.S. (1969); Flagg Bros., Inc. v Brooks,98 S Ct 1729 (1978); "confrontation of witnesses" In re Oliver, 333 U.S. 257 (1948); Palko v Conn. 302 U.S. 319 (1937); "equal protection of law" Strauder v West Virginia, 100 U.S. 303 (1880); Ex Parte Young, 209 U.S. 123 (1908); Dobbins v Los Angeles, 195 U.S. 223-241; In re Sawyer, 124 U.S. 200, 211. APPDX pp. 118-122, Article VI clause 2, United States Constitution; Northern Pipeline, supra.

A cardinal rule of International Law and American Law, is that a Court can not "create" a contract between parties, as does Ninth Circuit Judge FARRIS'S OPINION APPDX pp.3, 6, 7, 15, without the appearance of any of the alleged Creditors in any Trial Court below, in violation of APPELLANT'S Fifth [Fourteenth], Sixth, Seventh, Amendment rights, and a "procedural innovation" which is unconstitutional and in error. Sanborn v Pacific Mutual Life Ins. Co. (1941) 108 P 2d (Cal 2d) 458; Miner v Atlass, 363 U.S. 641 (1960) APPDX pp. 127, 128, 129, 144, 145; Mills v U.S. Bank (Ohio 1826) 11 Wheat 43, 6 L Ed 512.

Further, the de novo standard of review from a silent Trial Court record in the USDC C CA, absence of Findings of Fact and Conclusions of Law pursuant to Rule 52(a),FRCP, in effect a "trial de novo" in the Ninth Circuit, herein, is error, and unconstitu-

tional as a forbidden "procedural innovation" depriving APPELLANT of substantive rights under the Fifth, Sixth, Amendments, and in violation of 28 USC 2072, Sanborn, supra; Miner, supra; Jackson v Chesapeake & O Ry Co., 20 S.E. 2d 480 (1942)APPDX p.119, Article 10.

For the reason that there were no Rule 52(a) Findings of Fact and Conclusions of Law by USDC C CA Judge MANUEL L. REAL in US DC C CA Case No.CV83-5901R, said Judge abused his discretion in denying APPELLANT(S) a preliminary and permanent injunction commanding Defendants STATE OF CALIFORNIA, JOHN K. VAN DE KAMP, Attorney-General, to bring QUO WARRANTO PROCEEDINGS against December 1, 1981 defunct "California Corporation" R & T FINANCIAL SERVICING CO., INC. Trustee in Foreclosure, pursuant to CCP §803 APPDX p. 147, 121 Article 17, 120, Articles 11, 12. Mayo v Canning Co., 309 U.S. 310, 316 (1939).

The named APPELLANT herein has suffered

injury-in-fact, as a result of the preferential treatment of defunct "California Corporation" R & T FINANCIAL SERVICING CO., INC. Trustee in Foreclosure APPDX pp. 33-54, 60-62, 66-73, 78-82, 86-90, 96-111, and said injury was foreseeable to all Defendants in USDC C CA Case No.CV83-5901R as bound to happen to all APPELLANTS herein similarly situated, poor inter alia and/or "colored" minorities, and/or women, all without sufficient political, social, economic, power to protect their homes and land from illegal confiscation in violation of California Bank and Corporation Tax Law, Rev & Tax Code §§ 23302, 23571 APPDX p.144, pp.33-39, pp.118-120; and the named APPELLANT has jus tertii standing to make an "equal protection of law" challenge of the above §§23302, 23571 statutes. Barrows v Jackson 346 U.S. 249, 255, 257 (1953); Baker v Carr, 369 U.S. 186, 204 Griswald v Conn. 381 U.S. 479, 481 (1965)

Eisenstadt v Baird, 405 U.S. 438 (1972).

Further, once APPELLANT made a distinction which disadvantaged APPELLANT(S) in the illegal deprivation of their homes and Land by December 1, 1981 defunct "California Corporation" R & T FINANCIAL SERVICING CO., INC. Trustee in Foreclosure, which only the STATE OF CALIFORNIA, JOHN K. VAN DE KAMP, Attorney General, could prevent under CCP §803 QUO WARRANTO PRODEEDINGS, the STATE, AG, had the burden of justifying a State interest, legitimate or compelling as to why it would not bring QUO WARRANTO PROCEEDINGS, which they did not do, it was and is error for Ninth Circuit Judge FARRIS to raise a defense for said Defendants, on Appeal, which they did not raise themselves APPDX p.15; and further APPELLANT did state in the Complaint that the State had no compelling interest in not stopping the illegal activity of defunct "California Corporation" R & T FINANCIAL

SERVICING CO., INC. Trustee in Foreclosure (C.R. DOC. 1 Complaint p. 30 ). F.S. Royster Guano Co. v Virginia 253 U.S. 412 (1920); Reed v Reed, 404 U.S. 71, 75-76 (1971).

The named APPELLANT filed a 11 USC CHAPTER 7 Liquidation Petition, In re King, SA83-01703PE on or about April 14, 1983, Discharge granted July 11, 1983, and April 14, 1983 was the cleavage date for causes of action before that date to vest in 11 USC CHAPTER 7 Bankruptcy Trustee, JAMES JOSEPH, ESQ.--personal defenses and personal rights subsequent to April 14, 1983 did not vest in said Trustee, and on May 26, 1983, after receiving the names of LAWRENCE S. GREENBERG, M.D., INC., NORMAN CANTOR, M.D., LONNIE KAPLAN, SIMA KAPLAN, the Notice of Right to Rescission, the Rescission forms, from Defendant INTEGRITY HOME LOAN CO., INC. on May 23, 1983, APPELLANT en pais, pursuant to 15 USC 1631 (effective until October 1,

1982) APPDX p.127, 15 USC 1635(a) & (b) APPDX pp.128, 129, effectively rescinded the alleged January 1, 1979, March 27, 1981, November 17, 1981 Loans, Trust Deeds, where no consideration passed on those days, and the parties were unknown to APPELLANT in violation of CCC §§1549, 1550, 1558, 2920, 2922 APPDX pp.144, 145, in violation of 15 USC 1631 (effective until October 1, 1982) APPDX p.127, and the OPINION of Ninth Circuit Judge FARRIS is in error that Rescission is not available for the November 17, 1981 applied-for loan for the same reason damages are not available APPDX pp.6, 7, 15, and further said Opinion effectively invalidates the above 15 USC 1631 APPDX p.127, and without explanation, 15 USC 1635(a) & (b) APPDX p.3. Sosa v Fite (CA5 1974) 498 F 2d 114; Sparhawk v Yerkes, 142 U.S. 915 (1891); and further APPELLANT believes the above said OPINION is that of a single

Ninth Circuit Judge, FARRIS, without active, overt, concurrence of Ninth Circuit Judges NORRIS, PREGERSON, and is forbidden by Rule 27(c), FRAP APPDX p.142, 143, 132. Miner, supra.

APPELLANT contends herein that the US DC C CA Local Rule Emergency Resolution on or about December 24, 1982, and the December 27, 1982 "deputizing" of Article I Bankruptcy Judges with Article III attributes in disregard of Rules 53,83,FRCP,were unconstitutional, and that the ORDERS of Article I Bankruptcy Consultant Judges BARRY RUSSELL, PETER ELLIOTT dated December 29, 1982, LAX82-43130BR, dated October 25, 1983, herein pp. 35-36, 38-39, APPDX pp.29-31, are NULL & VOID ab initio, and should be so declared by this Court, to vested Title definitely in APPELLANT, Gwendolyn L. King, to her home and land, 4401 Don Diablo Drive, Los Angeles, California 90008, now illegally possessed as

September 1, 1984 by LONNIE KAPLAN, SIMA KAPLAN and/or MARCUS TODD, EDNA TODD APPDX pp.33-34, 35-39, 54, 60-62, 65, 66-70, 71-73, 74-111. Danzig, supra; Northern, supra; Sosa, supra; Sparhawk, supra; Color Craft, Re (BC Utah 1983) 27 B.R. 382; In re Conley, (BC Tenn 1983) 26 B.R. 782; American Brake, supra; Marbury, supra; Flagg Bros., supra; Sniadach, supra; In re Exennium (1982 BAP9 Cal) 23 B.R. 782; Donovan v Schuenke & Sampsell (9th Cir 1955) 226 F 2d 804; Bank of Calif Nat'l Assoc v McBride (9th Cir) 132 F 2d 769; Matter of Essex Properties (DC Cal 1977) 430 F Supp 1112. APPDX pp. 148-152.

APPELLANT further contends that CPC §419 REPOSSESSION OF LAND AFTER REMOVAL BY LEGAL PROCESS APPDX p.147-148 is unconstitutionally vague on its face, to wit: "Every person--who has been removed--from any lands--from process of law ("DUE" omitted)

...of any Court, tribunal, or officer..." allows a Court without statutory jurisdiction, a person without statutory jurisdiction, to effect a Transfer of Title to Land, as herein, by mere intimidation, CCP §§83, 86, APPDX pp.54, 65, 71-73, 79-80, 81-82, 86-90, 96-98, 99-101, 102-105, 106-108, 109-110, 111.Edwards v So. Carolina, 372 U.S. 22 229 (1963); Thompson v Louisville 362 U.S. 199 (1959); De Jonge v Oregon, 299 U.S. 353, 362 (1937); Yick Wo v Hopkins, 118 U.S. 356 (1886); Traux v Corrigan (1921) 257 U.S. 312. For the foregoing reasons APPELLANT contends California non-judicial foreclosure statutes are unconstitutional.

Under the facts and circumstances of this case, USDC C CA Case No.CV83-5901R, USDC C CA Judge MANUEL L. REAL stating publicly on or about January 24, 1984 that APPELLANT should be evicted on February 10, 1984 and he was "remanding" said Federal

causes of action in USDC C CA Case No.CV83-5901R, King et al v California, Kaplan et al, supra, filed September 14, 1983 (OPINION of Ninth Circuit Judge FARRIS APPDX pp.3, 4) to LAMC Case No.A65170, Kaplan v King, filed January 5, 1984 APPDX pp.54, 60-62, 33-39, Judge REAL should disqualify himself under 28 USC 455(a), 28 USC 455(b)(1) objective "reasonable" person standard and under 28 1407(a), (c), all of the herein pending CA9 Cases, Nos.84-5762, 85-2879, should be consolidated by the Judicial Panel on Multi-district litigation. International Law APPDX pp.117-125.

CONCLUSION

For the foregoing reasons, APPELLANT(S) respectfully urge this Court to take jurisdiction of this Appeal herein.

DATED: September 04, 1986

Respectfully submitted, Gwendolyn L. King

GWENDOLYN L. KING, In Pro Se

EDITOR'S NOTE

THE FOLLOWING PAGES WERE POOR HARD COPY AT THE TIME OF FILMING. IF AND WHEN A BETTER COPY CAN BE OBTAINED, A NEW FICHE WILL BE ISSUED.

87-229 No.

IN THE

Supreme Court, U.S.
FILED
SEP 5 1986
JOSEPH F. SPANIOL, JR.

# Supreme Court of the United States

OCTOBER TERM, 1986

NO.A-1050

GWENDOLYN L. KING, for herself, and on behalf of all others similarly situated; GWENDOLYN L. KING, as an individual,

Plaintiff(s)/Petitioner(s)/Appellant(s)

v.

STATE OF CALIFORNIA, George Deukmejian, Governor; March Fong Eu, Sec'y of State; JOHN K. VAN DE KAMP, Attorney-General of State; INTEGRITY HOME LOAN CO., INC. ["INTEGRITY, INC."]; PATRICK D. McCARRON, President of INTEGRITY, INC.; JOHN M. PLUMMER, Vice-President of INTEGRITY, INC; [LONNIE KAPLAN, SIMA KAPLAN, alleged Beneficiaries under Trust Deed No.81-1214615, L.A. County, with defunct "California Corporation" R & T FINANCIAL SERVICING CO., INC., Trustee in Foreclosure]; et al,

Defendants/Respondents/Appellees

CIVIL NO.83-6427

APPEAL FROM THE UNITED STATES

COURT OF APPEALS FOR THE NINTH CIRCUIT

## JURISDICTIONAL STATEMENT

## APPENDICES

GWENDOLYN L. KING, In Pro Se
c/o CENTRAL AVENUE POSTAL CENTER
3003 North Central Avenue
Suite 121-158
Phoenix, Arizona 85012

PETITIONER(S)/APPELLANT(S)

NO._____

King et al v California et al

734 F 2d 910 (9th Cir 1986)

NO.A-1050

JURISDICTIONAL STATEMENT

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NO._____

King et al v California et al

734 F 2d 910 (9th Cir 1986)

NO.A-1050

CIVIL NO.83-6427

APPEAL FROM THE NINTH CIRCUIT

COURT OF APPEALS

GWENDOLYN L. KING, In Pro Se
c/o CENTRAL AVE POSTAL CENTER
3003 North Central Ave
Suite 121-158
Phoenix, Arizona 85012

PETITIONER(S)/APPELLANT(S)

September 4, 1986

# UNITED STATES COURT OF APPEALS
# FOR THE NINTH CIRCUIT

GWENDOLYN L. KING, for herself and on behalf of all others similarly situated,
*Plaintiff-Appellant,*

v.

STATE OF CALIFORNIA, GEORGE DEUKMEJIAN, Governor; MARCH FONG EU, Sec'y of State; JOHN VAN DE CAMP, Attorney-General; INTEGRITY HOME LOAN, INC., PATRICK D. MCCARRON, President of Integrity Home Loan, JOHN M. PLUMMER, Vice-President of Integrity Home Loan, et al.,
*Defendants-Appellees.*

No. 83-6427
D.C. No. CV 83-5901-R
OPINION
Reported at 784 F 2d 910 (9th Cir 1986)

Submitted on Briefs

January 7, 1986—Pasadena, California

Filed March 7, 1986

Before: Jerome Farris, Harry Pregerson and William A. Norris, Circuit Judges.

Opinion by Judge Farris

Appeal from the United States District Court for the Central District of California
Manuel L. Real, District Judge, Presiding

## OPINION

FARRIS, Circuit Judge:

Gwendolyn King appeals from the district court's dismissal of her complaint with prejudice. Her action under the Truth-In-Lending Act and the Civil Rights Act alleged that Integrity Home Loan had failed to disclose the identity of the third party lenders who had loaned money to her secured by deeds of trust on her home. She also alleged that the trust deeds were void because the trustee, R&T Financial Servicing Co., Inc., lacked corporate status, and that the power of sale provisions of the California Civil Code are unconstitutional. She further alleged violations of 42 U.S.C. Sections 1981, 1982, 1983, and 1985 and slander of title by Integrity.

King's action against the State of California and its Attorney-General sought declaratory and injunctive relief that would render the actions of R&T null on the ground that R&T's corporate powers were suspended for non-payment of tax.

The district court dismissed on three alternative grounds: King failed to file an opposition to the motions to dismiss; King failed to appear at the hearing on the motions to dismiss; and King's complaint failed to state a claim. King contends that the district court erred by not granting her a continuance to respond to the motions to dismiss and by holding that she failed to state a claim.

## I. STATEMENT OF THE CASE

Integrity served as a loan broker on behalf of third party lenders in a series of three loans to Gwendolyn King. Each loan was secured by a deed of trust on King's home: a second trust deed, dated January 1, 1979, secured the first loan; a third trust deed, dated March 27, 1981, secured the second loan; and a third trust deed, dated November 17, 1981 and superseding the March 27, 1981 trust deed, secured the refinancing of the March 27, 1981 obligation. R&T was designated trustee under each trust deed. The identity of the third party lenders was not disclosed.

On December 1, 1981, the corporate franchise of R&T was suspended, pursuant to California Revenue and Taxation Code Section 23301. On June 4, 1982, Integrity recorded a Substitution of Trustee, substituting P. D. McCarron for R&T as the trustee under the trust deed. Integrity thereafter executed a reconveyance deed signed by McCarron, to eliminate the refinanced March 1981 obligation.

King filed a Chapter 7 bankruptcy petition and on July 7, 1983, obtained a discharge of her debts in bankruptcy. Title to King's home remains vested in the bankruptcy trustee.

On May 23, 1983, Integrity disclosed to King the identity of the lenders in each of the disputed transactions. On May 26, 1983, King attempted to rescind under 15 U.S.C. §§ 1635(a) and (b), and 12 C.F.R. § 226. Integrity then sought to foreclose on the security interest in King's home in a trustee's sale set for September 14, 1983. King filed with the State of California a request for quo warranto proceedings under the California Code of Civil Procedure section 803 to prevent the foreclosure sale.

On September 14, 1983, King, on behalf of herself and a class of borrowers who had dealt with Integrity, filed suit in federal court against Integrity, the State, various State officials, and the third party lenders.

In October 1983, both Integrity and the State filed a motion to dismiss King's complaint for failure to state a claim. On October 18, 1983, King filed the first of two ex parte applications to continue the hearing on the motions to dismiss and to extend the time for filing a response to the motions. The court granted King an extension to October 24, 1983 to file her response. King failed to file her response by that date. On November 4, 1983, she filed a second ex parte application for a continuance. On November 7, 1983, the court held a hearing on the motion to dismiss. King did not appear. The court denied King's untimely motion for a continuance and dismissed the complaint with prejudice. King timely appeals.

## II. DISCUSSION

### A. *The Motion for Continuance*

King argues that the district judge abused his discretion by denying her unopposed second ex parte application for a continuance. She argues that although she did not physically appear for the motion, her filed papers constitute an "appearance." She then failed to appear for the scheduled hearing of the motion to dismiss on November 7.

[1] We cannot conclude on this record that the district judge abused his discretion in denying the motion for continuance. For the first of these motions, the judge extended the deadline for filing papers to October 24, 1983. That deadline expired without any action by King. Faced with an ex parte motion not attended by a movant who had failed to file her response even within an extended filing schedule, the district judge denied the motion for further continuance. Under the circumstances, we can find no abuse of discretion.

B. *The Motion to Dismiss*

Since the district judge had before him neither King as opposing party nor her opposition papers, he was empowered by Local Rules 7.6 and 7.10 to dismiss her complaint on those grounds. Because it is unclear whether the district court dismissed for failure to conform to the local rules or dismissed on the merits, in the interests of justice we review the dismissal of the federal claims as going to the merits. Such review is *de novo*. *See Compton v. Ide*, 732 F.2d 1429, 1432 (9th Cir. 1984).

[2] A dismissal for failure to state a claim will be upheld if it appears to a certainty that the plaintiff can prove no set of facts in support of her claim that would entitle her to relief. *Litchfield v. Spielberg*, 736 F.2d 1352, 1357 (9th Cir. 1984), *cert. denied*, 105 S.Ct. 1753 (1985). The allegations of a pro se complaint will be construed liberally. *Hughes v. Rowe*, 449 U.S. 5, 9 (1980) (per curiam).

C. *Claims under the Truth-in-Lending Act*

King brings two sets of claims under TILA, one for rescission and one for damages for each of the three loans dated June 1979, March 1981, and November 1981.

1. *Rescission*

[3] If a lender fails to make the required material disclosures, TILA gives an obligor the right to rescind any credit transaction in which a security interest is created in the obligor's home. 15 U.S.C. Section 1635. King's claim for rescission of the June 1979 loan is barred by the three-year absolute limitation on rescission actions set out in 15 U.S.C. § 1635(f). The three years begin at the "consummation of the transaction or upon the sale of the property, whichever occurs first;" the period applicable to King began in June 1979 and expired in June 1982, more than a year before she filed suit.

[4] The loan of March 1981 cannot be rescinded, because there is nothing to rescind. King refinanced that loan in November 1981, and the deed of trust underlying the March 1981 loan has been superseded.

[5] As for the November 1981 loan, King's claim for rescissin fails, because Congress amended the TILA and Regulation Z, effective April 1, 1981, in such a way as to eliminate her cause of action for material nondisclosure. King contends that failure to disclose all third-party lenders was material nondisclosure. The amended Regulation Z did not include a general disclosure provision, but classified the disclosure requirement according to whether the credit transaction was "open-end" or "closed-end." The transaction here would qualify as closed-end, because it does not fit any of the definitions of an open-end credit transaction. *See* 12 C.F.R. § 226.2(20)(1985). In closed-end transactions, when there are multiple creditors, only the creditor making the disclosures need be identified on the disclosure statement. *Id.* § 26.18(a).

In addition, the new Regulation Z defines the term "material disclosures" as "the required disclosures of annual percentage rate, the finance charge, the amount financed, the total of payments and the payment schedule." *Id.* § 226.23 n.48. Under the new regulations, therefore, the identity of each creditor in a multiple creditor transaction is not a "material disclosure." Integrity's November 1981 loan thus did not violate the new Regulation Z, and King cannot rescind.

2. *Damages*

King contends that she can recover damages from Integrity for failing to disclose the identity of the third-party lenders.

[6] Damages are not available for the November 1981 loan for the same reason that rescission is not available. Under the amended regulations, it is not a material nondisclosure for Integrity to fail to disclose the identity of each creditor in this transaction.

The June 1979 and March 1981 loans, however, are subject to the old regulations, under which nondisclosure of the identity of a lender does give rise to civil liability. *Boncyk v. Cavanaugh Motors*, 673 F.2d 256, 260 (9th Cir. 1981); 15 U.S.C. § 1640(a). Integrity does not dispute this but contends that King's claims are barred by the one-year statute of limitations set out in 15 U.S.C. § 1640(e).

[7] Section 1640(e) provides that "[a]ny action under this section may be brought within one year from the date of the occurrance of the violation." We have not yet determined when a violation occurs so as to commence the one-year statutory period. *See Katz v. Bank of California*, 640 F.2d 1024, 1025 (9th Cir.), *cert. denied*, 454 U.S. 860 (1981). Three theories have been used by other circuits to determine when the

statutory period commences: (1) when the credit contract is executed; (2) when the disclosures are actually made (a "continuing violation" theory); (3) when the contract is executed, subject to the doctrines of equitable tolling and fraudulent concealment (limitations period runs from the date on which the borrower discovers or should reasonably have discovered the violation). *See Postow v. OBA Federal S&L Ass'n*, 627 F.2d 1370, 1379 (D.C. Cir. 1980) (adopting "continuing violation" theory in some situations); *Wachtel v. West*, 476 F.2d 1062, 1066-67 (6th Cir.), *cert. denied*, 414 U.S. 874 (1973) (rejecting "continuing violation" theory, statutory period commences upon execution of loan contract); *Stevens v. Rock Springs National Bank*, 497 F.2d 307, 310 (10th Cir. 1974) (rejecting "continuing violation" theory); *Jones v. TransOhio Savings Ass'n*, 747 F.2d 1037, 1043 (6th Cir. 1984) (applying equitable tolling and fraudulent concealment).

There are thus at least three ways to interpret Section 1640(e) so as to implement the purposes underlying TILA. Proponents of the "continuing violation" theory criticize a limitations period that runs from the consummation of the transaction because it would relieve lenders of liability even when their nondisclosures or fraud are continuing. Furthermore, lenders could structure the transaction so that borrowers could not discover the nondisclosure until one year from consummation had elapsed. *See Jones v. TransOhio Sav. Ass'n.*, 569 F.Supp. 1188, 1190-91 (N.D. Ohio 1983), *rev'd* 747 F.2d 1037 (6th Cir. 1984). Because borrowers may not discover the TILA violations until more than one year after the execution of the original contract, the "continuing violation" theory argues that it is inconsistent with the remedial and consumer-protection goals of the statute to bar suit when there is no reasonable way for the borrower to discover the wrong within the limitations period. *See Postow*, 627 F.2d at 1380.

On the other hand, those who favor a limitations period running from the execution of the contract contend that the language of § 1640(e), the TILA regulations, and the legislative history evince a congressional intent to terminate liability one year after consummation of the loan contract. *See Stevens*, 497 F.2d at 309. Congress did not intend, so the theory goes, to expose lenders to unpredictable and indefinite liability, stretching the length of a long-term mortgage, for example. This theory is bolstered by several arguments, none of which alone is dispositive but which taken together make a persuasive case against the "continuing violation" theory. First, the one-year limitation applies only to damage actions; rescission is available for three years. *See* 15 U.S.C. § 1635(f). Second, Congress placed a three year absolute limit on rescission actions, demonstrating its willingness to put a limit on some types of TILA actions. Third, the three year bar on rescission actions in Section 1635(f) begins at the "consummation of the transaction or upon the sale of the property, whichever occurs first," so at least in the rescission context, Congress did not intend to prolong the limitations period under a "continuing violation" theory. Last, the very existence of TILA imputes to the borrower knowledge of his rights. The burden then falls on the borrower to bring suit within a year from consummation if he or she suspects any violations.

[8] We reject the "continuing violation" theory as unrealistically open-ended. It exposes the lender to a prolonged and unforeseeable liability that Congress did not intend. *See Harvey v. Housing Development Corp.*, 451 F.Supp. 1198, 1202-3 (W.D. Mo. 1978). Moreover, the *Postow* case, which is the only Court of Appeals case to adopt the "continuing violation" theory, was careful to distinguish its facts from the facts of the cases which reject the "continuing violation" theory. 627 F.2d at 1380 n.22. In *Postow*, there was a gap between commitment and settlement, with the lender disclosing the required information only at settlement. *Id.* In the instant case, as in *Wachtel* and *Stevens*, the disclosures were not made until after settlement (i.e., consummation). *Postow* is thus not direct authority for applying the "continuing violation" theory to these facts.

[9] On the other hand, an inflexible rule that bars suit one year after consummation is equally inconsistent with legislative intent. Although the Act may impute to borrowers knowledge of their rights as consumers of credit, there may be situations in which a borrower consummates his loan and passes a year without knowing of his lender's fraud or nondisclosures.

We agree with the Sixth Circuit that equitable tolling might be appropriate in certain circumstances. To decide whether equitable tolling should apply to Section 1640(e), our basic inquiry is whether tolling the statute in certain situations will effectuate the congressional purpose of the Truth-in-Lending Act. *See Burnett v. New York Central R.R. Co.*, 380 U.S. 424, 427 (1965). The Supreme Court has repeatedly applied equitable tolling to statutes of limitations to prevent unjust results or to maintain the integrity of a statute. *See Bailey v. Glover*, 88 U.S. (21 Wall.) 342, 349-50 (1874) (Bankruptcy Act of 1867); *Exploration Co. Ltd. v. United States*, 247 U.S. 435, 449-50 (1918) (Act of March 3, 1891, 26 Stat. 1093, to vacate land patents); *Holmberg v. Armbrecht*, 327 U.S. 392, 396-7 (1946) (Federal Farm Loan Act); *Glus v. Brooklyn Eastern District Terminal*, 359 U.S. 231, 234-5 (1959) (Federal Employers' Liability Act). *Cf. Zipes v. Trans World Airlines*, 455 U.S. 385, 393 (1982) (Title VII time requirement for filing charges with Equal Employment Opportunity Commission).

Section 1601 of TILA sets forth the purpose of the Act:

> (a) The Congress finds that economic stabilization would be enhanced and the competition among the various financial institutions and other firms engaged in the extension of consumer credit would be strengthened by the informed use of credit. The informed use of credit results from an awareness of the cost thereof by consumers. It is the purpose of this subchapter to assure a meaningful disclosure of credit terms so that the consumer will be able to compare more readily the various credit terms available to him and avoid the uninformed use of credit

15 U.S.C. § 1601(a). Thus, Congress through TILA sought to protect consumers' choice through full disclosure and to guard against the divergent and at times fraudulent practices stemming from uniformed use of credit. *See Mourning v. Family Publications Service, Inc.*, 411 U.S. 356, 363-4 (1973) (citing H.R. Rep. No. 1040, 90th Cong., 1st Sess., 13 n.18 (1967); S. Rep. No. 392, 90th Cong., 1st Sess. 1-2 n.19 (1967)). The courts have construed TILA as a remedial statute, interpreting it liberally for the consumer. *Riggs v. Government Employees Financial Corp.*, 623 F.2d 68, 70-71 (9th Cir. 1980). As the Sixth Circuit noted, "[o]nly if Congress clearly manifests its intent to limit the federal court's jurisdiction will it be precluded from addressing allegations of fraudulent concealment which by their very nature, if true, serve to make compliance with the limitation period imposed by Congress an impossibility." *Jones v. TransOhio Savings Ass'n.*, 747 F.2d at 1041.

[10] For these reasons, we hold that the limitations period in Section 1640(e) runs from the date of consummation of the transaction but that the doctrine of equitable tolling may, in the appropriate circumstances, suspend the limitations period until the borrower discovers or had reasonable opportunity to discover the fraud or nondisclosures that form the basis of the TILA action. Therefore, as a general rule the limitations period starts at the consummation of the transaction. The district courts, however, can evaluate specific claims of fraudulent concealment and equitable tolling to determine if the general rule would be unjust or frustrate the purpose of the Act and adjust the limitations period accordingly.

[11] Since fraudulent concealment and equitable tolling involve factual determinations, we remand King's damage claims for the June 1979 loan and the March 1981 loan. The district court should consider such evidence as it deems appropriate to decide whether the claims as to these two transactions are time barred.

D. *Civil Rights and Constitutional Claims*

[12] King's claims for violations of 42 U.S.C. §§ 1981, 1982, 1983, 1985 and the Fourteenth Amendment are all similarly flawed: either she fails to allege discrimination at all or her allegations are conclusory and unsupported by any facts. The complaint and its supporting documents establish that there is no set of facts that would entitle her to relief on these claims. *See Litchfield v. Spielberg,* 736 F.2d 1352, 1357 (9th Cir. 1984), *cert. denied,* 105 S.Ct. 1753 (1985) (articulating the standard for motions to dismiss). For the elements of civil rights cases, *see Central Building Contractors Ass'n v. Pennsylvania,* 458 U.S. 375, 388-91 (1982) (Section 1981); *Jones v. Community Redevelopment Agency,* 733 F.2d 646, 649 (9th Cir. 1984) (Section 1983); *Stonecipher v. Bray,* 653 F.2d 398, 401 (9th Cir. 1981), *cert. denied,* 454 U.S. 1145 (1982) (Section 1985); *Washington v. Davis,* 426 U.S. 229, 246-48 (1976) (Fourteenth Amendment).

E. *Pendent State Claims*

King brings several state claims pendent to her federal claims. She claims slander of title and conspiracy to slander title; she claims that the trust deeds are invalid because the trustee's (R&T) powers were suspended for non-payment of tax; and she claims that a suspended corporation cannot exercise the power of private sale foreclosure. She asks us to order the state to begin quo warranto proceedings against R&T.

[13] The district judge did not make clear the basis for his dismissal of the state claims. Rather than speculate on the grounds for his dismissal, we remand the state claims as pendent to the surviving federal claims. Because the future of the federal claims lies in the district court, it would be pointless for us to review the state claims now. If the federal claims are ultimately disposed of at summary judgment, the district judge would have the discretion to dismiss the pendent state claims. *Schultz v. Sundberg*, 759 F.2d 714, 718 (9th Cir. 1985). We intimate no view of the future of any of these claims; it is because their future is not predictable that we remand the state claims along with the federal ones.

F. *Claims against the State and Attorney-General*

King's claims against the State and its Attorney-General are vague and without a legal basis. She complains about civil rights violations, but her basis for these claims and the relief she seeks are nebulous at best. Her argument apparently is that the State is not enforcing the suspension of R&T's powers nor is it instituting quo warranto proceedings, thus violating the equal protection clause of the Fourteenth Amendment by not treating R&T as it would treat other corporations.

[14] We affirm the district court's dismissal of the State and the Attorney-General. Conclusory statements unsupported by allegations of unequal treatment that implicates constitutional safeguards do not set forth a claim. We need not resolve our serious doubts about her standing to sue for unequal treatment of R&T, but even if she was so injured by the State's alleged preferential treatment of R&T that she could claim standing, she makes no cognizable equal protection claim. The Attorney-General has broad discretion in granting or denying leave to sue in quo warranto, *City of Campbell v. Mosk*, 197 Cal.App.2d 640, 648, 17 Cal.Rptr. 584, 585 (1961), and King has alleged neither a suspect classification calling for strict scrutiny nor that the Attorney-General's inaction bears no rational relationship to any legitimate governmental purpose. *See Bunyan v. Camacho*, 770 F.2d 773, 774 (9th Cir. 1985).

## III. CONCLUSION

To summarize, we hold that the district court properly dismissed all the federal claims except the TILA claims relating to civil damages under 15 U.S.C. § 1640 in connection with the June 1979 and March 1981 loans. King's complaint states a claim as to these two loans unless the district court, in applying the rule we set out for interpreting the statute of limitations in § 1640(e), finds that the claims are barred. We remand the state claims pendent to the surviving federal ones.

AFFIRMED IN PART; REVERSED AND REMANDED IN PART.

Each side shall bear its own costs and fees. "

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

| | | |
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| GWENDOLYN L. KING,et al, | ) | NO.83-6427 |
| | ) | |
| Plaintiff(s)/Appellant(s) | ) | USDC C CA |
| | ) | |
| v. | ) | NO. |
| | ) | |
| STATE OF CALIFORNIA,et al, | ) | CV83-5901R |
| | ) | |
| Defendants/Appellees. | ) | |

FILED: May 08, 1986

ORDER

Before: FARRIS, PREGERSON, and NORRIS, Circuit Judges.

The panel as constituted in the above case has voted to deny the petition for rehearing and to reject the suggestion for a rehearing en banc.

The full court has been advised of the suggestion for an en banc hearing, and no judge of the court has requested a vote on it. Fed. R. App. P. 35(b).

The petition for rehearing is denied

and the suggestion for a rehearing en banc is rejected.

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UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

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| GWENDOLYN L. KING,et al, | NO.83-6427 |
| Plaintiff(s)/Appellant(s) | USDC C CA |
| v. | NO. |
| STATE OF CALIFORNIA,et al, | CV83-5901R |
| Defendants/Appellees. | |

FILED: May 13, 1986

NOTICE OF APPEAL

NOTICE IS HEREBY GIVEN that GWENDOLYN L. KING, Petitioner(s)/Appellant(s), IN PRO SE, hereby appeal to the Supreme Court of the United States from the FINAL JUDGMENT entered in this action on March 7, 1986, APPELLANT(S) PETITION FOR REHEARING EN BANC denied and rejected by ORDER entered May 8, 1986. A copy of the published OPINION entered March 7, 1986 and a copy of the ORDER entered May 8, 1986 are attached.

This Appeal is taken pursuant to Title 28, USC §§1252, 1254, 2103, and/or Title 42 USC §1984 [sic], and under the United Nations Charter Treaty, Article 55, Article 56, and under the Treaty on Abolition of Slavery, Executive L, 88th Cong-1st Sess; Helsinki Accords.

DATED: May 12, 1986

/s/Gwendolyn L. King

PETITIONER(S)/APPELLANT(S)

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UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

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|---|---|---|
| GWENDOLYN L. KING,et al, | ) | NO.83-6427 |
| Plaintiff(s)/Appellant(s) | ) | USDC C CA |
| v. | ) | NO. |
| STATE OF CALIFORNIA,et al, | ) | CV83-5901R |
| Defendants/Appellees | ) | |

FILED: May 28, 1986

AMENDED NOTICE OF APPEAL

NOTICE: GWENDOLYN L. KING, Petitioner(s)/Appellant(s), IN PRO SE, hereby amend, supercede the MAY 12, 1986 NOTICE OF APPEAL filed MAY 13, 1986 herein, and hereby appeal to the United States Supreme Court from the FINAL JUDGMENT herein entered March 7, 1986, 86 L.A. Daily Journal D.A.R. 876, APPELLANT(S) PETITION FOR REHEARING EN BANC denied by ORDER entered MAY 08, 1986 which ORDER is attached.

This Appeal is taken pursuant to: 28

USC §1252, §1254, and/or §1257, and/or §2103; and/or 42 USC §1981, §1982, §1983, §1985; and Article VI Cl. 2 of the United States Constitution: United Nations Charter (Treaty), Articles 55, 56; Treaty on Abolition of Slavery...Institutions and Practices Similar, Executive L, 88th Cong 1st Sess; Helsinki Accords.

DATED MAY 27, 1986

/s/Gwendolyn L. King

PETITIONER(S)/APPELLANT(S)

o0o

LAW OFFICES

VOLK, NEWMAN, GRALLA & KARP

JAMES H. KARP, ESQ.

UNITED STATES DISTRICT COURT

CENTRAL DISTRICT OF CALIFORNIA

| | | |
|---|---|---|
| GWENDOLYN L. KING,et al, | ) | NO. |
| | ) | |
| Plaintiff(s) | ) | CV83-5901R |
| | ) | |
| v. | ) | |
| | ) | |
| STATE OF CALIFORNIA,et al, | ) | |
| | ) | |
| Defendants. | ) | |

FILED: November 10, 1983

ORDER DISMISSING COMPLAINT

The Court finds:

1. Defendants, Integrity Home Loan Co. Inc., Patrick D. McCarron, and John Plummer filed herein their Motion to Dismiss Complaint [F.R.C.P. 12(b)(6)].

2. Plaintiff filed with the Court no written opposition to said Motion, and failed to enter an appearance at the time

and place of hearing on said Motion.

3. Upon consideration of the said Motion and good cause appearing, it is

ORDERED, that the defendants' Motion be granted and that the Complaint herein be and hereby is dismissed as to the above moving defendants, no leave to amend being granted.

DATED: November 10, 1983

/s/Manuel L. Real

United States District Judge

o0o

JOHN K. VAN DE KAMP, ESQ.
Attorney-General, California
HENRY G. ULLERICH, ESQ.
Deputy Attorney-General, California
[Handwritten at top of page.] "JS-6
Declaratory Judgment Filed 9/14/83 Court
Grants Motions to Dismiss 11/7/83"

UNITED STATES DISTRICT COURT

CENTRAL DISTRICT OF CALIFORNIA

| | |
|---|---|
| GWENDOLYN L. KING,et al, | ) NO. |
| Plaintiff(s) | ) CV83-5901R |
| v. | ) |
| STATE OF CALIFORNIA,et al, | ) |
| Defendants. | ) |

FILED: November 10, 1983

ORDER

This cause came on for hearing on November 7, 1983 on the motion to dismiss the complaint by defendant John K. Van De Kamp, Attorney General of the State of

California, on the grounds of lack of jurisdiction by reason of the Eleventh Amendment to the United States Constitution (as to defendant State) and a lack of case or controversy as to said defendants and that the complaint fails to state a claim upon which relief can be granted against said defendants and the court having considered the pleadings and written argument, and being fully advised, it is,

ORDERED that the motion to dismiss by said defendants be granted and that the complaint be and it is hereby dismissed as to said defendants.

DATED: November 10, 1983

/s/Manuel L. Real

United States District Judge

o0o

UNITED STATES DISTRICT COURT

CENTRAL DISTRICT OF CALIFORNIA

MINUTES FORM 11

Case No.CV83-5901R November 7, 1983

Gwendolyn L. King v California et al

DOCKET ENTRY vu

PRESENT: HON. MANUEL L. REAL,Judge

Loyette Fisher, Deputy Clerk

Florence Garcia, Reporter

ATTORNEYS PRESENT FOR PLAINTIFF: N/A

ATTORNEYS PRESENT FOR DEFENDANTS:

James H. Karp,Esq.

Henry G. Ullerich,Esq.

PROCEEDINGS: Defendants Integrity Home Loan Co., Patrick D. McCarron & John Plummers' [sic] motion to dismiss the complaint. Defendants State of California & John K. Van De Kamps' [sic] motion to dismiss.

[Different typewriter] Plaintiff's ex

parte application for continuance of motion to dismiss.

Hearing held and Court rules that the plaintiff's ex parte application comes to [sic] late after being filed on Friday at 4:37 P.M. Court grants the defendants motions to dismiss the complaint. Counsel to prepare the order.

[NINTH CIRCUIT CR DOC. NO.19]

oOo

SUPREME COURT OF THE UNITED STATES

No.A-1050

GWENDOLYN L. KING,

Applicant,

v.

CALIFORNIA, ET AL

---

O R D E R

---

UPON CONSIDERATION of the application of applicant,

IT IS ORDERED that the time for docketing an appeal in the above-entitled cause be, and the same is hereby, extended to and including September 5, 1986.

/s/William H. Rehnquist

Associate Justice of the Supreme Court of the United States

Dated this 11th day of July, 1986.

CAPRICE L. COLLINS, ESQ.

Attorney for Plaintiffs

UNITED STATES BANKRUPTCY COURT

CENTRAL DISTRICT OF CALIFORNIA

| | |
|---|---|
| In re: | ) Bankruptcy No. |
| GWENDOLYN L. KING aka | ) SA83-01703PE |
| GWENDOLYN L. GREENE aka | ) CHAPTER 7 |
| GWEN GREENE, | ) Adversary No. |
| Debtor. | ) SA83-2194PE |
| | ) Oct 18, 1983 |
| INTEGRITY HOME LOAN CO., INC., LONNIE KAPLAN and SIMA KAPLAN | ) 10:00 a.m. |
| | ) Courtroom 523 |
| Plaintiffs, | |
| vs. | |
| GWENDOLYN L. KING aka | |
| GWENDOLYN L. GREENE aka | |
| GWEN GREENE, | |
| Defendant. | |

FILED: OCT 25, 1983 ENTERED: OCT 28, 1983

ORDER

GRANTING LEAVE TO FORECLOSE AND

RELIEF FROM AUTOMATIC STAY

Trial on Plaintiff's Request for Relief from Automatic Stay came on regularly on October 18, 1983, Courtroom 523 of the above entitled Court. Plaintiff was represented by its counsel, Caprice L. Collins; Defendant/Debtor was not represented and was not present in Court.

The Court, ~~having considered the evidence~~ ~~Court~~ [deletion initialed PE] record and oral argument advanced, made its Order as follows:

IT IS HEREBY ORDERED, ADJUDGED AND DECREED:

1. That Plaintiffs are permitted to perfect foreclosure proceedings on the subject property generally described as 4401 Don Diablo Drive, Los Angeles, California 90008;

2. That Plaintiffs shall be entitled to all amounts due and owing them including but not limited to arrearages, principal, interest, attorny's fees, foreclosure fees, and late charges; and

3. That all restraining Orders and Automatic Stays with respect to this proceeding and to any subsequent proceedings which involve the subject property and the defendant herein and/or their assignee(s) or successor(s) in interest are hereby vacated, extinguished and terminated.

DATED: OCT 25, 1983

/s/Peter Elliott

United States Bankruptcy Judge

[Handwritten at bottom.] "default epk"

2. That Plaintiffs shall be entitled to all amounts due and owing them including but not limited to arrearages, principal, interest, attorny's fees, foreclosure fees, and late charges; and

3. That all restraining Orders and Automatic Stays with respect to this proceeding and to any subsequent proceedings which involve the subject property and the defendant herein and/or their assignee(s) or successor(s) in interest are hereby vacated, extinguished and terminated.

DATED: OCT 25, 1983

/s/Peter Elliott

United States Bankruptcy Judge

[Handwritten at bottom.] "default epk"

o0o

STATE OF CALIFORNIA

OFFICE OF THE SECRETARY OF STATE

CERTIFICATE OF FILING AND SUSPENSION

I, MARCH FONG EU, Secretary of State of the State of California, hereby certify:

That on the 1st day of December, 1981 pursuant to the provisions of the California Bank and Corporation Tax Law, more particularly Section 23302 of the Revenue and Taxation Code, the Franchise Tax Board transmitted a list to this office containing the names of domestic corporations whose corporate powers, rights and privileges have been suspended under said law.

Further, that thereupon certain entries were made in the records of this office pertaining to the corporations named in said list for the purpose of setting forth suspension and that one of the corpora-

tions so listed and of record in this office is R & T FINANCIAL SERVICING CO., INC #741028, Name, Corporation Number.

Further that the corporate powers, rights and privileges of said corporation were suspended on the aforesaid date [December 1, 1981] as in said Section 23302 provided and that the records in this office relating to said corporation are in the inactive files, reinstatement never having been effected.

IN WITNESS WHEREOF, I execute this certificate and affix the Great Seal of the State of California this 7th day of June, 1983

SEAL OF THE STATE OF CALIFORNIA

/s/March Fong Eu
Secretary of State

oOo

RECORDING REQUESTED BY
Lonnie & Sima Kaplan
9750 El Arco Drive
Whittier, CA 90603

83-1520834
RECORDED IN
OFFICIAL RECORDS
RECORDER'S
OFFICE
LOS ANGELES
COUNTY
CALIFORNIA

1 MIN PAST 11 A.M. DEC 22 1983

TRUSTEE'S DEED UPON SALE T.S.NO.4267

The undersigned grantor declares

(1) The grantor herein was the foreclosing beneficiary.

(2) The amount of the unpaid debt together with costs was $44,032.86.

(3) The amount paid by the grantee at the trustee sale was $44,032.86.

(4) The documentary transfer tax is -0-.

(5) Said property is in the City of Los Angeles, and R & T Financial Servicing

Co., Inc., A California Corporation (herein called Trustee), as the duly appointed Trustee under the Deed of Trust hereinafter described, does hereby grant and convey, but without warranty, express or implied, to Lonnie Kaplan and Sima Kaplan, husband and wife as Community Property, (herein called Grantees), all of its right, title and interest in and to that certain property situated in the City of Los Angeles, County of Los Angeles, State of California, described as follows: Lot 8 of Tract 17452 as per map recorded in book 481 pages 28 to 31 inclusive of maps, in the office of the county recorder of said county.

TRUSTEE STATES THAT:

This conveyance is made pursuant to the powers conferred upon Trustee by that certain Deed of Trust dated November 17,

1981 and executed by Gwendolyn L. King as Trustor, and recorded December 10, 1981 as Instrument No.81-1214615 of Official Records of Los Angeles County, California, and after fulfillment of the conditions specified in said Deed of Trust authorizing this conveyance.

Default occurred as set forth in a Notice of Default and Election to Sell which was recorded in the office of the Recorder of said County.

All requirements of law regarding the mailing of copies of notices Default and Trustee Sale and the posting and publication of copies of the Notice of Sale have been complied with.

Said property was sold at public auction on October 25, 1983 at the place named in the Notice of Sale, in the County of Los Angeles, California, in which the property

is situated. Grantees, being the highest bidder at such sale, became the purchaser of said property and paid thereafter to said Trustee the amount bid, being $44,032.86. in lawful money of the United States, or by satisfaction pro tanto, of the obligation then secured by said Deed of Trust.

In Witness Whereof, said R & T Financial Servicing Co., Inc., A California Corporation as Trustee has this day caused its corporate name and seal to be hereunto affixed by its Assistant Vice-President thereunto duly authorized by resolution of its Board of Directors.

STATE OF CALIFORNIA )
)ss.
COUNTY OF LOS ANGELES)

On December 21, 1983, before me, the undersigned, a Notary Public in and for said State, personally appeared Adrienne

Rivas known to me to be Assistant Vice-President, the Corporation that executed the within instrument as Trustee, known to me to be the persons who executed the within instrument on behalf of the Corporation and acknowledged to me that said Corporation executed the same as Trustee.

WITNESS my hand and and official seal,

/s/S. Robert Groot

R & T Financial Servicing Co., Inc.

as Trustee aforesaid

By /s/Adrienne Rivas, Asst Vice-Pres.

By OFFICIAL SEAL OF S. ROBERT GROOT,
NOTARY PUBLIC CALIFORNIA
LOS ANGELES COUNTY
OFFICIAL SEAL OF STATE OF
CALIFORNIA
[NO CORPORATE SEAL OF R & T
FINANCIAL SERVICING CO., INC.]

ooo

LAW OFFICES OF

CAPRICE L. COLLINS

Attorney for Plaintiffs

MUNICIPAL COURT OF THE LOS ANGELES JUDICIAL DISTRICT, COUNTY OF LOS ANGELES

STATE OF CALIFORNIA

| | |
|---|---|
| LONNIE KAPLAN and SIMA KAPLAN, Plaintiffs, vs. GWENDOLYN L. KING aka GWENDOLYN GREENE and GWEN GREENE and Does I through XX, Inclusive, Defendants. | Case No. A65170 COMPLAINT FOR UNLAWFUL DETAINER [Missing Exhibits "B", "C", "E"] |

FILED & SUMMONS ISSUED JAN 05, 1984

Plaintiffs complain of the defendants and for cause of action allege:

1. Plaintiffs are the owners of and

entitled to immediate possession of the real property in Los Angeles County, California more particularly described as 4401 Don Diablo Drive, Los Angeles, California 90008 by virtue of a foreclosure sale duly held on October 27, 1983.

2. Defendant GWENDOLYN KING aka GWENDOLYN GREENE and GWEN GREENE is a resident of the County of Los Angeles and in possession of the above-described real property.

3. Plaintiffs are ignorant of the true names and capacities of defendants sued herein as DOES I through XX, inclusive, and therefore sues those defendants by such fictitious names. Plaintiffs will amend this Complaint to allege their true names and capacities when ascertained. Plaintiffs are informed and believe and thereon allege that each of such fictiti-

ously named defendants is in possession of the premises.

4. The real property, possession of which is sought in this action is situated in Los Angeles County, California.

5. Plaintiffs were the beneficiaries of a Promissory Note dated November 17, 1981. Performance under the note was secured by a Deed of Trust recorded in the official records of Los Angeles County, California noted as Document No.81-1214615 mortgaging the property located at 4401 Don Diablo Drive, Los Angeles, California 90008 (hereinafter "the property"), which is more particularly described in the copy of the Deed of Trust. By said Deed of Trust GWENDOLYN KING conveyed said property to the trustee R & T Financial Servicing Co., Inc., as security for the payment of a Promissory Note dated November

17, 1981 in the principal amount of $32,000.00 payable to beneficiaries. A copy of said Deed of Trust and Promissory Note are attached hereto as Exhibits "A" and "B" and made a part hereof [This Court is requested to take Judicial Notice that Exhibit "B", alleged Promissory Note dated November 17, 1981,/s/Gwendolyn L.King, attachment to LAMC Unlawful Detainer Complaint, was and is missing because on November 17, 1981 Gwendolyn L. King did not sign a Promissory Note under Trust Deed No.81-1214615 which Trust Deed was signed in blank before Integrity, Inc. told her they did not have a Lender for the some $32,000.00 listed thereon the Trust Deed No.81-1214615].

6. Defendant KING defaulted in the payment of said Promissory Note, and thereafter, on July 28, 1982, at the request

of the plaintiffs, said trustee caused to be recorded as Document No.82-755833 of the official records in the Office of the County Recorder of Los Angeles County, California, a Notice of Default and breach of conditions of said Deed of Trust and its election to sell said property to satisfy the obligations thereby secured.

7. Thereafter, on October 27, 1982, Defendant KING filed her first bankruptcy petition, case number LAX82-17781BR. As a result, Plaintiffs herein filed a Complaint for Relief from Stay on November 24, 1982, adversary number LAX82-43130BR. On December 6, 1982, the Summons and Complaint were timely served upon Defendant and the Chapter 13 Trustee [ELSIE DAVIS], to which Plaintiffs received no timely written response [This Court is requested to take Judicial Notice that adversary

complaint was filed November 29, 1982 and Summons in adversary case LAX82-43130BR was issued December 3, 1982 with Answer due December 20, 1982, and received by KING on or about December 18, 1982, ANSWER and COUNTER-COMPLAINT served and filed within twenty (20) days of December 3, 1982, by KING, on December 22, 1982, and no reply was made to the COUNTER-COMPLAINT nor did the PlAINTIFFS/CROSS-DEFENDANTS, Integrity, Inc., Lonnie Kaplan, S Sima Kaplan, or their Attorney of Record CAPRICE L. COLLINS, ESQ. appear at "Trial" December 27, 1982 as more fully described on page 37 of the herein attached JURISDICTIONAL STATEMENT, NO.A-1050, and further there is no record that "appeal was denied by the United States District Court on February 22, 1983"]. At trial on the matter on December 27, 1982, the

Honorable Barry Russell granted Plaintiffs their Order for Relief from Automatic Stay A true and correct copy of this Order is attached hereto as Exhibit "C" [This Court is requested to take Judicial Notice that Exhibit "C" was missing and that on or about March 29, 1984, the entire case file in LAMC No.A65170 was reported missing by affidavit of MAYRA PINO, Supervisor Civil Files.] Thereafter, on January 11, 1983, said Defendant KING attempted to appeal said order, but said appeal was denied by the United States District Court on February 22, 1983 [This Court is requested to take Judicial Notice that USBC C CA Clerk JACK WAGNER simply purported to "unfile" the filed January 11, 1983 NOTICE OF APPEAL by returning the Original to KING with no explanation.]

8. Thereafter, on April 12, 1983, Def-

endant KING filed her second bankruptcy petition in the United States District Court in Santa Ana, California. The case number assigned was SA83-01703PE. On September 23, 1983, Plaintiffs filed their second Complaint for Relief from Stay, adversary number SA83-2194PE [This Court is requested to take Judicial Notice that on July 11, 1983, moments before KING'S Discharge of all debts was granted, in 11 USC CHAPTER 7 Liquidation Petition, case No.SA83-01703PE, In re King, adversary complaint No.SA83-2194PE, Integrity, Inc., Lonnie Kaplan, Sima Kaplan v Gwendolyn King (TRUSTEE NOT NAMED), was dismissed, for lack of Service of Summons & Complaint in case No.SA83-2194PE on KING and/or the 11 USC CHAPTER 7 Court Trustee JAMES JOSEPH, ESQ., --that on September 14, 1983 KING filed, had Summons issued

in the herein USDC C CA Case No.CV83-5901 R, King et al v California, Integrity,Inc Lonnie Kaplan, Sima Kaplan et al, 784 F 2d 910 (9th Cir 1986) (SEE p.A-4 of the Opinion of Ninth Circuit Judge FARRIS - therein said Case on Appeal herein), and on September 14, 1983, Integrity, Inc. was served with Summons & Complaint in USDC C CA Case No.CV83-5901R and on December 12, 1983, Lonnie Kaplan, Sima Kaplan, were served with Summons & Complaint in USDC C CA Case No.CV83-5901R.] On September 23, 1983, Plaintiffs filed their second Complaint for Relief from Stay, adversary number SA83-2194PE. On September 23, 1983, the Summons and Complaint were timely served upon Defendant and Chapter 7 Trustee, James Joseph, to which Plaintiffs received no timely response. At trial on this matter on October 18,

1983, the Honorable Peter Elliott granted Plaintiffs their Order for Relief from Automatic Stay. A true and correct copy of this Order is attached hereto as Exhibit "D".[This Court is requested to take Judicial Notice that on January 4, 1984, the Plaintiffs herein LAMC No. A65170, Kaplan v King,(filed January 5, 1984,)filed but did not serve a Rule 12 (b)(6),FRCP MOTION TO DISMISS as Defendants in USDC C CA No.CV83-5901R, King et al v California, Integrity, Inc., Kaplan, supra; CA9 No.84-7097, U.S. S.C. NO.84-695, King et al v Real, USDC C CA, Integrity, Inc., Kaplan, et al, 105 S Ct Rptr 768 no. 5 (1984).]

9. On August 19, 1983, more than three months after recordation of said Notice of Default, said trustee [R & T Financial Servicing Co., Inc.] gave notice in the

manner and form required by Sections 2924 of the Civil Code and 692 of the Code of Civil Procedure that said property would be sold at public auction on September 14 1983 at Los Angeles County, California to satisfy the obligations secured by said Deed of Trust. A copy of said trustee's sale notice [R & T Financial Servicing Co. Inc.] is attached hereto as Exhibit "E". Thereafter, said sale was postponed until October 25, 1983. [Date in paragraph 1 of LAMC No.A65170 listed as October 27, 1983]

10. On October 25, 1983 in Los Angeles County, California, the [December 1, 1981 defunct "California Corporation" R & T FINANCIAL SERVICING CO.,INC. Trustee in Foreclosure] trustee sold [for no cash] the property to plaintiffs, and on said day, executed and delivered to plaintiffs a deed [R & T FINANCIAL SERVICING CO.,

INC. TRUSTEE'S DEED UPON SALE NO.4267, herein APPDX p. 35 .] therefor which said deed was recorded on December 22, 1983 as Document No.83-1520834 in the official records in the office of the County Recorder of Los Angeles County, California. A copy of the [R & T FINANCIAL SERVICING CO., INC.] Trustee's Deed Upon Sale [NO. 4267] is attached hereto as Exhibit "F" and made a part hereof.

11. On December 28, 1983, in Los Angeles County, California, plaintiffs [Defendants LONNIE KAPLAN, SIMA KAPLAN in USDC CA Case No.CV83-5901R, King et al v California, Integrity, Inc., Kaplan, served on KAPLANS on December 12, 1983.] caused to be served on defendant a written notice [sent in mail] requiring her to quit and deliver up possession of said premises to plaintiffs within three (3) days after

service of said notice. A copy of said notice and proof of service of said notice are attached hereto as Exhibits "G" and "H" and made a part hereof.

12. More than three (3) days have elapsed since the service of said notice [alleged Posting of Notice on property by A & V PROCESSING SERVICE, 451 W. Manchester #103, Inglewood, CA 90301], but defendants have failed and refused to deliver up possession of said premises.

13. Defendants continue in possession of said premises without plaintiffs permission or consent. Such continuance in possession by defendants are [sic] willful, intentional, deliberate and obstinate

14. The reasonable value of the use and occupancy of said premises in the sum of $33.00 per day, and damages to plaintiffs caused by defendant's unlawful detention

thereof have accrued at said rate since December 31, 1983 and will continue to accrue at said rate so long as defendant remains in possession of said premises.

WHEREFORE, Plaintiffs pray for judgment against defendant for:

1. Restitution of said premises;

2. Damages at the rate of $33.00 per day for each that defendants continue in possession of said premises, and that said amount be trebled;

3. Costs of suit incurred herein; and

4. For any further relief as the Court may deem just and proper.

DATED: January 1, 1984

/s/Caprice L. Collins

CAPRICE L. COLLINS,ESQ.

Attorney for Plaintiffs

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MUNICIPAL COURT OF THE LOS ANGELES JUDICIAL DISTRICT, COUNTY OF LOS ANGELES STATE OF CALIFORNIA

Hon. Clarence STROMWALL, Judge, Cal No.2

SHEAD, Deputy Clerk LAW & MOTION DIV 2

Case No.A65170 Kaplan vs King aka Greene

For Plaintiff: COLLINS,ESQ. 2-10-84

For Defendant: IN PRO PER 2-10-84

NATURE OF PROCEEDINGS:

MOTION OF DEFENDANT GWENDOLYN L. KING aka GWENDOLYN L. GREENE aka GWEN GREENE, TO SQUASH SERVICE OF SUMMONS & COMPLAINT AND TO STRIKE COMPLAINT FOR UNLAWFUL DETAINER

[S & C sent by mail 1-12-84,MOT FILED 1-17-84]

FILED:FEB 10,1984

DISPOSITION:

MOTION TO SQUASH DENIED.

MOTION TO STRIKE DENIED.

DEFENDANT HAS 5 DAYS TO ANSWER.

PLAINTIFF TO PREPARE ORDER TO GIVE NOTICE.

GW

Great Western Savings and Loan Association

P.O. Box 1900 Northridge, CA 91328

February 16, 1984

Gwendolyn L. King

4401 Don Diablo Drive

Los Angeles, CA 90008

Dear Ms. King:

Re: Loan No.0-145537-9

Your letter of February 1, 1984 has been referred to me for reply.

In point No.1, regarding title to your property, you contend that title is still vested in the bankruptcy court. Although your bankruptcy trustee had an interest in your property, we have in our possession (a copy is enclosed for your records) a disclaimer signed by your trustee James Joseph.

In point No.2, you stated that a previous

Notice of Default has never been rescinded. If that is the case, we will discover it with our current Notice of Default through our title company's title search, and if it is still of record, our Trustee California Reconveyance Company, will see to the proper recording of the rescision [sic] prior to our current Notice of Default's recording.

In point No.3, you requested an annual loan statement for 1983. As you made no payments to us in 1983, you paid no interest and no taxes. Your loan balance, as of December 31, 1983, was $28,483.35.

As for your request for a copy of our Notice of Default, you will receive this as soon as it is properly recorded. The initial recording of January 27, 1984 is being rescinded and a new Notice of Default will be recorded.

Should you require additional information, please feel free to contact us.

Sincerely,

/s/Jeff S. Yablan

JEFF S. YABLAN

Sr. Loan Service Officer

Service Unit 7

(818) 701-2075

A SAVINGS ASSOCIATION OF GREAT WESTERN FINANCIAL CORPORATION

MEMBER FEDERAL HOME LOAN BANK SYSTEM

MEMBER FSLIC

o0o

GW

Great Western Savings and Loan Association

P.O. Box 1900 Northridge, CA 91328

May 24, 1983

RECEIVED

June 16, 1983

SPECIALIZED

SERVICES

James Joseph

1801 Century Park East, Suite 140

Los Angeles, CA 90067

Re: Bankruptcy Case No.SA83-01703PE

Debtor: King, Gwendolyn L.

Great Western Loan No.0-145537-9

Dear Mr. Joseph:

We would appreciate receiving confirmation that you, as Trustee in the above referenced bankruptcy matter, claim no interest in the real property located at 4401 Don Diablo Drive, Los Angeles, California. This property is the security for

the above referenced Great Western Savings loan. If the foregoing statement is correct, please sign below and return the original of this letter to me. A stamped self-addressed envelope is enclosed for your convenience.

Thank you.

Sincerely,

/s/Amy Cox

AMY COX

Assistant Secretary

ac

encls.

This will confirm, that I, James Joseph, as Trustee, claim no interest in the real property located at 4401 Don Diablo Drive Los Angeles, California.

/s/James Joseph 6/11/83

JAMES JOSEPH DATE

[handwritten, underlined] no

LAW OFFICES OF

CAPRICE L. COLLINS

Attorney for Defendants

Lonnie Kaplan, Sima Kaplan

[Handwritten at top] "CLOSED ENTR

Complaint for Declaratory Judgment

FILED 9/14/83

2/6/84--COURT GRANTS MOTION TO

DISMISS THE COMPLAINT"

UNITED STATES DISTRICT COURT

CENTRAL DISTRICT OF CALIFORNIA

| | |
|---|---|
| Gwendolyn L. King,et al, | ) NO.CV83-5901R |
| Plaintiff(s) | ) ORDER |
| v. | ) DISMISSING |
| California, Integrity Home | ) COMPLAINT |
| Loan Co., Inc., Lonnie Kap- | ) Feb 6, 1984 |
| lan, Sima Kaplan, et al, | ) 10:00 a.m. |
| Defendants. | ) Courtroom 14 |

FILED Feb 06,1984 ENTERED Feb 28,1984

The Court finds:

1. Defendants, LONNIE KAPLAN and SIMA KAPLAN, filed herein their Motion to Dismiss Complaint [F.R.C.P. 12(b)(6)]. [on January 4, 1984 but did not serve Plaintiff KING until Saturday, January 21, 1984, the subject of PETITION FOR WRIT OF PROHIBITION/MANDAMUS, King et al v Real, USDC C CA, Integrity, Inc., Kaplan, CA9 No.84-7097, served February 5, 1984, U.S. S.C. NO.84-695, 105 S Ct Rptr 768 no. 5 (1984)]

2. Plaintiffs filed with the Court no written opposition to said Motion, and failed to enter an appearance at the time and place of hearing on said Motion.

3. Upon consideration of the said Motion and good cause appearing, it is

ORDERED, that the Defendants' Motion be granted and that the complaint herein be and hereby is dismissed as to the above-mwntioned moving Defendants, with preju-

dice.

DATED: FEB 27, 1984

/s/Manuel L. Real

MANUEL L. REAL

United States District Judge

o0o

SUPERIOR COURT OF CALIFORNIA

COUNTY OF LOS ANGELES

| | |
|---|---|
| Gwendolyn L. King, etc. | NO.C486-610 |
| Petititioner | (LAMC NO. |
| vs. | A65170) |
| Municipal Court of Los | PETITION FOR |
| Angeles Judicial District, | WRIT OF |
| Clarence Stromwall, LAMC | MANDATE TO |
| Judge, | COMPEL LAMC |
| Respondents, | TO SQUASH |
| Lonnie Kaplan, Sima | SERVICE OF |
| Kaplan, | SUMMONS |
| Real Parties In Interest. | (FILED 2-15'84) |

ORDER FILED March 5, 1984

The court having read and considered the Petition for Writ of Mandate in the above entitled matter, now makes the following order:

Petition denied. Request for findings of fact and conclusions of law denied.

(See Rule 232 California Rules of Court and Code of Civil Procedure §632).

DATED: March 5, 1984

HON. HAROLD E. SHABO
Judge of Superior Court
State of California
Los Angeles County

o0o

MUNICIPAL COURT LOS ANGELES JUDICIAL DIST

[Mimeo form] --CIVIL DIVISION--DIV 08

COUNTY OF LOS ANGELES, CALIFORNIA

Plaintiff: Lonnie Kaplan, Sima Kaplan

Defendant: Gwendolyn L. King

ORDER FOR ENTRY OF DEFAULT BY COURT ON COMPLAINT FILED MAR 9,84 NO.A65170

It appearing to the Court from an examination of the records and files in this action that Defendant(s) Gwendolyn L. King aka Gwendolyn L. Greene aka Gwen Greene has been duly served with a copy of the Summons and Complaint in the manner required by law, to wit: C.C.P.415.10; and that the Defendant(s) has [sic] failed to answer the Complaint, and the time for answering having expired, the default of said Defendant(s) is hereby ordered entered. By: (initials) Law student

DATED:3-8-84 [stamped]John D. Harris,Comm

LAW OFFICES OF

CAPRICE L. COLLINS

Attorney for Plaintiffs

MUNICIPAL COURT OF THE LOS ANGELES JUDICIAL DISTRICT, COUNTY OF LOS ANGELES

STATE OF CALIFORNIA

| | | |
|---|---|---|
| LONNIE KAPLAN and | ) | Case No. |
| SIMA KAPLAN, | ) | A65170 |
| Plaintiffs, | ) | AMENDED |
| vs. | ) | DECLARATION FOR |
| GWENDOLYN L. KING aka | ) | JUDGMENT FOR |
| GWENDOLYN GREENE and | ) | FAILURE TO |
| GWEN GREENE and Does | ) | ANSWER |
| I through XX, Inclu- | ) | [C.C.P.§585(d)] |
| sive, | ) | FILED MAR 13,1984 |
| Defendants. | ) | |
| STATE OF CALIFORNIA | ) | |
| | )ss | |
| COUNTY OF LOS ANGELES | ) | |

I, LONNIE KAPLAN, declare as follows:

1. The facts stated in this declara-

tion are within my personal knowledge and if sworn, I can testify competently thereto.

2. I am one of the plaintiffs in the above entitled action and am the legal owner of the premises located at 4401 Don Diablo Drive, Los Angeles, California 90008, City of Los Angeles, County of Los Angeles, State of California. That prior to the filing of this action [January 5, 1984], I became legal owner of the real property by virtue of a foreclosure sale duly held on October 27, 1984 [R & T TRUSTEE'S DEED NO.4267 states October 25, 1983].

3. Thereafter, the defendant has continued to maintain possession of the premises without my permission or consent.

4. On December 28, 1983, I caused to be served upon each defendant a Three-Day

Notice to Quit, in writing, to deliver and surrender the possession of said premises to me at the expiration of three days, from December 28, 1983.

5. That more than three days had elasped and a Summons and Complaint were served on January 11, 1984 [by mail, received by KING on January 12, 1984].

6. That on January 17, 1984, Defendant filed a Motion to Squash Service of the Summons and Complaint and Motion to Strike the Complaint for Unlawful Detainer. That on February 10, 1984, at the hearing on the motion, the Court denied Defendant's motion and granted her five (5) days to answer the unlawful detainer complaint. That on February 13, 1984, my attorney filed and served notice of this ruling upon the Defendant. A true and correct copy of the notice and its proof

of service is attached hereto as Exhibit "A' and made a part hereof [No Exhibit "A" attached.]

7. That more than five (5) days have elasped since the hearing and Defendant has failed to file and serve her answer upon me and my counsel. That more than fifteen (15) days have elasped since Defendant received notice of said denial.

WHEREFORE, this declarant prays that this Court render its judgment by default and issue its Writ of Execution for Possession of Real Property against the defendant for restitution of said premises; for judgment in the sum of $2,793.00 plus the sum of $33.00 per day for such time a as the Defendant occupies said premises, $1,000.00 for attorney's fees together with court costs in the sum of $77.00.

I declare under penalty of perjury

that the foregoing is true and correct.

Executed on March 7, 1984 in Los Angeles, California.

[Not his signature]

/s/Lonnie Kaplan

LONNIE KAPLAN

Declarant

oOo

CAPRICE L. COLLINS, ESQ.

Attorney for Judgment Creditor

MUNICIPAL COURT OF LOS ANGELES

Plaintiff: LONNIE KAPLAN and SIMA KAPLAN

Defendant: GWENDOLYN L. KING aka GWENDOLYN GREENE aka GWEN GREENE

Case No.A65170 ISSUED ON MAR 13 1984

WRIT OF POSSESSION OF REAL PROPERTY

1. To the Sheriff or any Marshal or Constable of the County of Los Angeles

   You are directed to enforce the judgment described below with daily interest and your costs as provided by law.

2. To any registered process server: You are authorized to serve this writ only in accord with CCP 699.080 or 715.040.

3. Judgment Creditor LONNIE KAPLAN and SIMA KAPLAN

4. Judgment Debtor GWENDOLYN KING aka

GWENDOLYN GREENE aka GWEN GREENE

4401 Don Diablo Drive

Los Angeles, CA 90008

5. Judgment entered on MAR 13 1984

6. N/A

7. Notice of sale under this writ has not been requested.

8. N/A

9. Real property to be delivered under a writ of possession or sold under a writ of sale is described on reverse [No.9]

10. N/A

11. Total judgment $-0-

12. Costs after judgment $-0-

13. Subtotal $-0-

14. Credits $-0-

15. Subtotal $-0-

16. Interest after judgment $-0-

17. Fee for issuance of writ $-0-

18. Total $-0-

19. Levying officer: Add daily interest from date of writ $-0-

20. N/A

EDWARD M. KRITZMAN, Clerk of Court

by /s/Wm Crosson, Deputy

W. CROSSON

(REVERSE SIDE OF WRIT OF POSSESSION OF REAL PROPERTY ISSUED MAR 13 1984 LAMC)

CASE NO.A65170 KAPLAN vs KING

9. Judgment was entered for the following: Possession of real property: Single family dwelling located at 4401 Don Diablo Drive, County of Los Angeles, State of California. [Handwritten, initialed WC] "Complaint filed 1-5-84"

SEAL OF

MUNICIPAL COURT LOS ANGELES JUDICIAL DIST

Approved by Judicial Council CI-75JC

CALIFORNIA COURT OF APPEAL

Second District Division 1

| | |
|---|---|
| GWENDOLYN L. KING | NO.B004133 |
| aka GWENDOLYN L. GREENE | (L.A. Superior |
| aka GWEN GREENE | Ct No.C486-610 |
| Petitioner | L.A. Muni Ct |
| v. | No.A65170) |
| MUNICIPAL COURT OF | PETITION FOR |
| STATE OF CALIFORNIA | WRIT OF MANDATE |
| FOR COUNTY OF LOS | TO COMPEL LAMC, |
| ANGELES; STROMWALL | STROMWALL, TO |
| Respondents | SQUASH SERVICE |
| LONNIE KAPLAN, SIMA | OF SUMMONS |
| KAPLAN | |
| Real Parties | |

ORDER FILED MAR 14 1984

THE COURT:

The petition for writ of mandate, filed March 12, 1984, has been read and considered. The petition is denied.

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

| | |
|---|---|
| GWENDOLYN L. KING, et al | NO.84-7097 |
| Petitioner(s) | USDC C CA |
| v. | NO.CV83-5901R |
| UNITED STATES DISTRICT | PETITION FOR |
| COURT FOR THE CENTRAL | WRIT OF |
| DISTRICT OF CALIFORNIA; | PROHIBITION/ |
| REAL, RUSSELL, ELLIOTT, | MANDAMUS RE: |
| BROSNAN, et al | FEB 06, 1984 |
| Respondents | HEARING ON |
| INTEGRITY HOME LOAN CO., | KAPLANS' RULE |
| INC., LONNIE KAPLAN, | 12(b)(6) |
| SIMA KAPLAN | MOTION TO |
| Real Parties | DISMISS |

ORDER FILED APR 10 1984

Before: WALLACE, ANDERSON and TANG, Circuit Judges

This petition for a writ of mandamus is denied. Petitioner may raise any

assignment of district court error in CV 83-5901R in her direct appeal, King v California, No.83-6427, now pending before this court.

o0o

IN THE

SUPREME COURT OF THE STATE OF CALIFORNIA

IN BANK

ORDER DENYING HEARING

AFTER JUDGMENT BY THE COURT OF APPEAL

2d District, Division 1

No.B004133

FILED APR 18 1984

GWENDOLYN L. KING

Petitioner

v.

MUNICIPAL COURT OF COUNTY OF LOS ANGELES;

STROMWALL

Respondents

LONNIE KAPLAN, SIMA KAPLAN

Real Parties In Interest.

Petition for hearing DENIED.

/s/Bird,C.J., Chief Justice

oOo

RECEIPT FOR POSSESSION OF REAL PROPERTY

KAPLAN vs KING Case No.LAMC A65170

Received from the Marshal of Municipal Courts, Los Angeles County, State of California, quiet and peaceable possession of the premises described in the Writ of Possession of Real Property [ISSUED MAR 13 1984 By EDWARD M. KRITZMAN Clerk of LAMC per Deputy Clerk WM CROSSON on Complaint filed 1-5-84]

DATED /s/Lonnie Kaplan 4-19-84

[His signature]

76P475X-(A)

oOo

MUNICIPAL COURT OF THE LOS ANGELES JUDICIAL DISTRICT, COUNTY OF LOS ANGELES STATE OF CALIFORNIA

Hon. Clarence STROMWALL, Judge, Cal No.2

SHEAD, Deputy Clerk LAW & MOTION DIV 2

Case No.A65170 Kaplan vs King aka Greene

For Plaintiff: COLLINS, ESQ. 4-20-84

For Defendant: IN PRO PER 4-20-84

NATURE OF PROCEEDINGS:

MOTION OF DEFENDANT--
GWENDOLYN L. KING aka
GWENDOLYN L. GREENE
aka GWEN GREENE
(Filed Apr 10, 1984)
TO SET ASIDE AND
VACATE DEFAULT
JUDGMENT AND RECALL
WRIT OF POSSESSION
OF REAL PROPERTY.

FILED: APR 20,1984

DISPOSITION:

DEFENDANT'S EXHIBIT "A" FILED--
OPENING BRIEF
U.S. NINTH CIRCUIT
NO.83-6427, King
et al v California

MOTION DENIED

Court finds:
No grounds for relief exists.

DISPOSITION (Continued)

No meritorious defense.

ORDERED:

1. Stay of Execution of MAR 13 1984 Writ of Possession of Real Property terminated at 4-20-1984.

2. If prior posting, no new 5 day Notice required.

3. Bailiff to notify Marshal.

4. Plaintiff to give Notice.

Culver City

Marshal notified

& copy sent. A.P. Zuniga #99

Deputy Marshal

RECEIVED MARSHAL'S DIVISION

LOS ANGELES '84 APR 20 PM12:01

o0o

MUNICIPAL COURT OF THE LOS ANGELES JUDICIAL DISTRICT, COUNTY OF LOS ANGELES STATE OF CALIFORNIA

RETURN ON EXECUTION Case No.A65170

(Possession of Real Property)

I, the undersigned, Marshal of Municipal Courts, Los Angeles County, State of California, hereby certify that I received the annexed Writ of Execution (Possession of Real Property) on the date endorsed thereon by me.

I certify that I served a copy of the Writ and a 5-day notice to vacate the premises as checked below.

X Posted in a conspicuous place on the property on 3-26-1984 there being no occupant at the time of service of an occupant was attempted. Another copy was mailed to the defendant(s) GWENDOLYN KING addressed to 4401 Don Diablo Drive,L.A.

CA 90008 by depositing said copy in the United States mail on 3-26-1984 at Culver City, CA 90230 in a sealed envelope with postage fully prepaid.

I further certify that thereafter on 4-19-1984 I placed the creditor(s) [LONNIE KAPLAN, SIMA KAPLAN] in quiet and peaceful possession of the premises therein described. I herewith return said W it without further service, fully satisfied as to the creditor(s) possession only, with accrued costs of $14.00.

DATED: APR 23 1984 FILED APR 23 1984

DIVISION CULVER 31

JOHN F. MAHON, JR.

MARSHAL

By /s/P. Pickens

P. PICKENS #81

Deputy Marshal

76P475X-(B) PS5-83

SUPREME COURT OF THE UNITED STATES

NO.A-20

GWENDOLYN L. KING, ETC.

Appellant

v.

MUNICIPAL COURT OF CALIFORNIA, COUNTY OF LOS ANGELES, STATE OF CALIFORNIA, STROMWALL,

Respondents

LONNIE KAPLAN, SIMA KAPLAN,

Real Parties In Interest

---

O R D E R

---

UPON CONSIDERATION of the application of the appellant,

IT IS ORDERED that the time for docketing an appeal in the above-entitled case be, and the same is hereby, extended to and including September 4, 1984.

/s/William H. Rehnquist

Associate Justice of the Supreme

Court of the United States

Dated this 12th

day of July, 1984

oOo

" 84-695

NO.

OFFICE SUPRE
F I L E
AUG 11 1
ALEXANDER L.
CLERK

# In the Supreme Court

OF THE

# United States

No. A-21

GWENDOLYN L. KING, for herself, and on behalf of all others similarly situated; GWENDOLYN L. KING, individual,
Petitioner(s)/Appellant(s)

v.

Hon. MANUEL REAL, LEONARD BROSNAN, Clerk, USDC, Central District of California;
Hon. BARRY RUSSELL, Hon. PETER ELLIOTT, JACK WAGNER, Clerk,
USBC, Central District of California,
Respondents/Appellees

INTEGRITY HOME LOAN CO., INC., LONNIE KAPLAN, SIMA KAPLAN as alleged Beneficiaries under Trust Deed No.81-1214615, etc.
Real Parties in Interest/Appellees

ON APPEAL FROM THE NINTH CIRCUIT

## JURISDICTIONAL STATEMENT

Gwendolyn L. King, In Pro Se

85-A

ARREST REPORT

Booking No.7732-675 Loc SBI Dr Lic NONE

Arrestee's Name KING, GWENDOLYN L.

Address 4401 Don Diablo Drive L.A. Sex F

Descent BLK  Birthdate REFUSED Age UNK

Birthplace UNK

Division & Detail Arresting S/W CZN

Date & Time Arrested 9-1-84 1405

Location of Arrest 4401 Don Diablo Drive

Bail 500.00

Type M Charge 419 PC REPOSSESSION OF LAND AFTER REMOVAL BY LEGAL PROCESS

ADMONITION OF RIGHTS  NOT GIVEN

Arraignment Date 9-24-84 8:30 Div 80

Location Crime Committed 4401 Don Diablo

R.D. 391 Soc Sec No. UNK Res Phone NONE

Occupation NONE  Employer NONE

Clothing worn  Jeans Wht dotted sht

Location Arrestee's Vehicle NONE

Evidence of illness  Heart trouble

INVOLVED PERSONS Code V-Victim W-Witness P/A- Private Person Arresting R-Person Reporting

P/A KAPLAN, LONNIE Sex M Descent WHITE DOB 5-20-19 Address 9758 El Arco Drive Whittier, California 90603

APPROVAL REPORTING OFFICERS 9-1-84 1900

S/W REPORTING OFFICER S/W CZN KAPLAN

PAGE NO.2/4 ARREST REPORT 7732-695

SOURCE OF ACTIVITY:

On 9-1-84 at approx 1330 hrs ofcrs assigned 3015 in a mkd Blk & Wht Pol Veh rec'd a R/C 459 [Felony Burglary] now at 4401 Don Diablo Dr Code-2.

OBSERVATIONS:

Upon arrival Ofrs were met by P/A KAPLAN. P/A KAPLAN stated that on 4-19-84 at 11:45 this deft was served by LA County Marshals with an eviction Notice. P/A stated that the deft had left the loc upon

Notice of the eviction papers. P/A stated that he is the owner of the property and presented proper documents to verify so.

P/A stated that he has returned to the above loc on prior occasions and obsd the deft inside the residence after eviction. P/A stated that he has also warned the deft that she was in violation of the eviction Notice that the Marshals served.

On 9-1-84 at approx 1300 hrs P/A returned to the loc and attempted to enter and obs the frt door was secured from the inside and a lock was forced on the side gate. P/A stated that he peered through the mail chute and obs the deft inside. P/A attempted to gain entry but deft refused. P/A then notified LAPD. Ofcrs were also denied entry. Ofcrs went to the rear of the loc and obs the rear sliding glass door unlocked and a large hole in a rear

window, Ofrs called Vict's [not a mistake, in the report] name through the rear window and heard her reply from inside the resid. Ofcrs entered and discoved the deft barricaded inside the bathroom. P/A and Ofcrs asked deft to exit and she refused.

PAGE NO.3/4 ARREST REPORT 7732-695

P/A advised deft that he was going to place her under CZN Arrest and deft still refused to exit the bathroom. P/A then supplied Sgt. Hernandez #21757 with a screwdriver and requested that he open the door.

ARREST:

P/A placed deft under CZN Arr for 419 PC (POSS OF LAND AFTER REMOVAL BY LEGAL PROCESS) See p.4 for CZN Arr Statements.

BOOKING:

Deft was booked on the above charge at

SBI [SYBIL BRAND INSTITUTE] on advice of Sgt O'Neill #15627 S/W W/C.

PAGE NO.4/4 ARREST REPORT 7732-695

STATEMENT OF CITIZEN ARREST:

AS A PRIVATE PERSON I, LONNIE KAPLAN HAVE ARRESTED GWENDOLYN KING FOR VIOLATION OF SECTION 419 OF THE PENAL CODE, A PUBLIC OFFENSE COMMITTED IN MY PRESENCE AT 4401 DON DIABLO DRIVE, L.A.

I HEREBY DEMAND THAT POLICE OFFICERS J. GREER #22830 AND D. DAVIS #24517 TRANSPORT THE SUSPECT TO THE STATION.

I UNDERSTAND THAT I HAVE ARRESTED THIS PERSON AND I WISH TO PROSECUTE. THE OFFICERS ARE ONLY TRANSPORTING AND COMPLETING THE NECESSARY REPORTS.

/s/Lonnie Kaplan

9752 El Arco Drive

Whittier, California 90603

(213) 943-2382 DOB 5-20-19

R E C E I V E D
SEP 6 1984
OFFICE OF THE CLERK
SUPREME COURT U.S.

NO.A-20

IN THE SUPREME COURT OF THE UNITED STATES

October Term, 1984

GWENDOLYN L. KING aka GWENDOLYN L. GREENE

Petitioner/Appellant

v.

Hon. CLARANCE STROMWALL, LAMC, L.A.COUNTY

Respondents/Appellee

LONNIE KAPLAN, SIMA KAPLAN as alleged Beneficiaries under Trust Deed No.81-1214615 with defunct R & T FINANCIAL SERVICING CO., INC. Trustee in Foreclosure

Real Parties In Interest

APPEAL FROM SUPREME COURT OF CALIFORNIA

CAL S CT NO.B004133(LAMC A65170)

# JURISDICTIONAL STATEMENT

September 4, 1984 GWENDOLYN L. KING

CERTIFICATE OF SERVICE

A-20

THE UNDERSIGNED CERTIFIES THAT ON SEPTEMBER 4, 1984 I SERVED ATTORNEYS OF RECORD FOR EACH OF THE APPELLEES AS FOLLOWS:

U.S. ATTORNEY
11th Floor
312 No.Spring St.
Los Angeles, CA 90012

VOLK, NEWMAN, ETC.
1920 Equitable Plaza
3435 Wilshire Blvd.
Los Angeles,CA90010

ATTORNEY-GENERAL,U.S.A.
Washington, D.C. 20530

SOLICITOR-GENERAL
Washington, D.C. 20530

LAW OFFICES OF
CAPRICE COLLINS
5757 W. Century
Los Angeles,CA90045

I CERTIFY UNDER PENALTY OF PERJURY OF THE LAWS OF THE STATE OF CALIFORNIA THAT THE FOREGOING IS TRUE AND CORRECT ON SEPTEMBER 4, 1984, LOS ANGELES, CA.

/s/Roberto Confresci
$200.00 Docket Fees
sent separate

1509 No. Main St.
Santa Ana, CA
92701

JURISDICTIONAL STATEMENT A-20 ENVELOPE

POSTMARKED SEP 04 '84

Roberto Confresci
1509 No.Main St.
Suite B118
Santa Ana, CA 92701

METER STAMP LABEL
USPO
WPC WIND
SEP 4 1984
LOS ANGELES, CA
PRIORITY MAIL

ALEXANDER STEVAS, CLERK
SUPREME COURT OF THE UNITED STATES
Washington, D.C. 20543

[Enclosure JURISDICTIONAL STATEMENT A-20]
Typewritten ORIGINAL plus one COPY]

GWENDOLYN L. KING
3003 NO. CENTRAL AVE
SUITE 121-158
PHOENIX,AZ 85012

RECEIVED
JUL 2- 1985
OFFICE OF THE CLERK
SUPREME COURT U.S.
[40 printed copies]

SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1984

NO.A-20

COMPANION FEDERAL APPEAL NO.84-695, A-21

GWENDOLYN L. KING aka GWENDOLYN L. GREENE

Petitioner/Appellant

v

HON. CLARENCE STROMWALL, LAMC, et al

Respondents/Appellees

LONNIE KAPLAN, SIMA KAPLAN, etc.

Real Parties In Interest

APPEAL FROM SUPREME COURT OF CALIFORNIA

Cal S Ct No.B004133(LAMC No.A65170)

+ 28 USC 1252 SUPPLEMENTAL APPEALS 12-31

SEPT 4,1984 JURISDICTIONAL STATEMENT

JURISDICTIONAL STATEMENT A-20

DOCKET FEES

UNITED STATES OF AMERICA

POSTAL MONEY ORDER

34826406221 850802 900541 $200.00

Serial No. Yr.Mo.Day P.O. U.S.Doll.

PAY TO CLERK OF U.S. SUPREME COURT

STREET Washington, D.C.

CITY,STATE,ZIP 20542

FROM GWENDOLYN L. KING

STREET New Address 3003 North Central Av
Ste 121-158

CITY,STATE,ZIP Phoenix, AZ 85012

(Old Address: 1509 No Main St Ste B118
Santa Ana, CA 92701)

Under separate Cover King v LAMC,KAPLAN
JURISDICTIONAL STATEMENT [40 printed]
(Combined Appeal from Cal S Ct Sep 4'84
+ 28 USC SUPPLEMENTAL APPEALS 12-31-84)

MUNICIPAL COURT OF THE LOS ANGELES JUDICIAL DISTRICT, COUNTY OF LOS ANGELES STATE OF CALIFORNIA

| | |
|---|---|
| People of the State of California [KAPLAN], Plaintiff, -vs- GWENDOLYN L. KING, 7732-695 PC 419 Defendant. | ) MISDEMEANOR COMPLAINT NO.31303105 Filed: [no date] EDWARD M. KRITZMAN,Clerk IRA REINER C.Atty |

Comes now the undersigned and states that he is informed and believes, and upon such information and belief declares: That on or about September 1, 1984, at and in the City of Los Angeles, in the County of Los Angeles, State of California, a misdemeanor, to wit: violation of §410 of the Penal Code of the State of California was committed by GWENDOLYN L. KING (whose true name to

96 -A

affiant is unknown), who at the time and place aforesaid, did willfully and unlawfully after having been removed from any lands, to wit, 4401 Don Diablo Drive, by process of law, and pursuant to the lawful adjudication and direction of any court and tribunal and officer, afterwards unlawfully return to settle, reside upon, and take possession of such lands.

All of which is contrary to the law and against the peace and dignity of the People of the State of California. Declarant and complainant therefore prays that a warrant may be issued for the arrest of said defendant and that he may be dealt with according to law.

Attached hereto and incorporated by reference as though fully set forth are written statements and reports, consisting of pages [APPDX PP. 86-90 ARREST

REPORT pages 2/4, 3/4, 4/4], which constitute the basis upon which I make the within allegations.

A Declaration in Support of the issuance of Such Warrant is Submitted [NO DECLARATION SUBMITTED].

Executed at Los Angeles, California, on September 6, 1984 [Emphasis in Complaint].

I declare under penalty of perjury that the foregoing is true and correct.

[Unsigned]

KIRK RIZZI

Declarant

and Complainant

L.A. City Attorney

ks

o0o

MUNICIPAL COURT OF THE LOS ANGELES

JUDICIAL DISTRICT, COUNTY OF LOS ANGELES

STATE OF CALIFORNIA

MISDEMEANOR DOCKET CASE ACTION SUMMARY

Case Number 31303105

1. The People of the State of California

vs.

Gwendolyn L. King, Defendant

Violation §419 Penal Code Date 9-1-84

Date SEP 10 1984 Complaint Filed RIZZI

2. APPEARANCE INFORMATION

9-24-84 8:30 a.m. DIV 82 BAIL $50.00

3. CONTINUANCES

9-24-84 DIV 80 Judge DAVID M. KENNICK*

Prosecutor FERRELL Defense Atty NONE

Deft PRESENT CONTINUED 9-25-84 1:30 p.m.

9-25-84 DIV 80 Judge DAVID M. KENNICK

Deft PRESENT [FALSE] CONT. 9-26-84 1:30

Prosecutor FERRELL Defense Atty NONE

4. FAILURE TO APPEAR/BENCH WARRANT

Oct 03 1984 DIV 80 Judge DAVID M. KINNEY

Prosecutor FERRELL Defense Atty NONE

OCT 18 1984 Bench Warrant Issued and

Transmitted to LAPD.

Defendant Fails to Appear.

Bail Ordered Forfeited.

Bail set at $750.00

*9-24-84 no formal charge in open court no plea entered, no witnesses appeared including LONNIE KAPLAN, SIMA KAPLAN, alleged Citizens Arrestors of 9-1-84, no defense Counsel appointed, deft not asked if she was appearing In Pro Per, deft told by LAMC Judge DAVID M. KINNEY "Show up tomorrow at 1:30 p.m. and I'll deal with you." and handed a slip of paper that stated on 9-25-84 deft would be sentenced. On 9-25-84, Noon, deft filed Removal Petition No.CR84-906 in

the United States District Court of Central California ("USDC C CA"), King v California [KAPLAN], and has not appeared in the LAMC Criminal Case No.31303105 since 9-24-84, docket entries to the contrary on the Misdemeanor Docker Case Action Summary.

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UNITED STATES DISTRICT COURT

CENTRAL DISTRICT OF CALIFORNIA

Docket Entries

Case No.CR84-906 (LAMC No.31303105)

Gwendolyn L. King,

Petitioner/Defendant

v.

State of California[KAPLAN]

Respondents/Plaintiffs

09-25-84 Filed Petition for Removal from Muni Ct of County of L.A. Ca #31303105, POSS OF LAND AFTER REMOVAL BY LEGAL PROCESS. RLB (Dkt'd 10-12-84)

10-04-84 Plf/Rspdnt STATE OF CALIFORNIA filed MOTION TO DISMISS PETITION FOR REMOVAL OR IN ALT TO REMAND. P/A RLB (Dkt'd 10-12-84)

| | |
|---|---|
| 10-09-84 | Status Hearing held (HRG RE PTN TO REMOVE ACTION FROM MUNI CT. RE ST'S MOT TO DSM OR TO REMAND, NO APPEAR BY DFT/PTR. STATE'S MOT TO DSM PTN GRANTED & ACTION REMANDED TO MUNI CT JUDGE HATTER RLB (Dkt'd 10-12-84) |
| 10-09-84 | Case closed: All counts terminated (CT GRANTS STATE'S MOT TO DSM PETN & ACTION REMANDED TO MUNI CT JUDGE HATTER RLB (Dkt'd 10-12-84) |
| 10-09-84 | Status Hearing held (ASSIGNMENT OF PETITION FOR REMOVAL MAGISTRATE TASSOPULOS RLB (Dkt'd 10-16-84) |
| 10-11-84 | ORDER filed (ORD PETN FOR REMOVAL IS DSMD & CASE REMANDED TO MUNI CT LA JUDICIAL DIST JUDGE HATTER RLB (Dkt'd 10-16-84) |

10-18-84 DFT Filed [28 USC 1252] NOTICE OF APPEAL TO THE SUPREME COURT OF THE UNITED STATES [to be appended to King et al v Real, USDC C CA, Brosnan, Russell, Elliott, ex rel Integrity Home Loan Co., Inc., Lonnie & Sima Kaplan (CA9 NO.84-7097 USDC C CA NO.CV83-5901R) U.S. S.C. NO.84-695, NO.A-21, Docketed AUG 11, 1984, 105 S Ct Rptr 768 no.5 (1984) and/or to be appended to King etc. v Stromwall, LAMC, L.A. County, State of California ex rel Lonnie & Sima Kaplan (Cal S Ct No. B004133, Cal Ct Appeal No.B0041 33, L.A. Superior Court No.C486-610, LAMC No.A65170) U.S. S.C. NO.A-20, APPDX pp. 91,94 herein Docketed SEPT 04, 1984, no

number assigned or placed on calendar by Clerk of Supreme Court of the United States]

10-26-84 DFT FLD TRANSCRIPT DSGN & ORD FOR RLB (Dkt'd 10-29-84)

o0o

UNITED STATES DISTRICT COURT

CENTRAL DISTRICT OF CALIFORNIA

USDC C CA NO.CR84-906

(formerly LAMC Criminal No.31303105)

REMOVAL PETITION King v California,Kaplan

Transcript of Proceedings OCT 09 1984

LOS ANGELES, CALIFORNIA

TUESDAY, OCTOBER 09, 1984, 2:15 p.m.

TERRY J. HATTER, JR., DISTRICT JUDGE

(Un-noticed MOTION TO DISMISS/REMAND filed OCT 04, 1986 by L.A. CITY ATTORNEYS IRA REINER, ESQ., ARTHUR WALSH, ESQ.)

CLERK: Item number one, civil action CV84-906, The State of California versus Gwendolyn L. King. Counsel, please make your appearances.

WALSH: Good afternoon, your Honor. Arthur B. Walsh, W-a-l-s-h, Deputy City Attorney for the People of the State of California. (TR. P.4)

JUDGE HATTER: Thank you. All right. Do we have the defendant who is in pro per here? We don't have the defendant? (TR. p.4)

WALSH: She did not appear this morning either, your Honor, in the Magistrate's Court.

JUDGE HATTER: I see. And what efforts have you made to contact her?

WALSH: None, your Honor.

JUDGE HATTER: You made no efforts to contact her?

WALSH: No, your Honor.

CLERK: Your Honor, our office did.

JUDGE HATTER: Oh, I see. So she did receive notice?

(Document handed to Court)

JUDGE HATTER: All right. I see from the Court file that the Magistrate did have the Clerk's Office send out

notice [received by Deft Oct 10,1984].

All right. The motion to dismiss the petition for removal is granted.

WALSH: Thank you, your Honor.

JUDGE HATTER: If you will prepare the order.

WALSH: I will lodge it tommorrow.

JUDGE HATTER: All right. Thank you.

I CERTIFY THAT THE FOREGOING IS A TRUE AND CORRECT TRANSCRIPT OF THE PROCEEDINGS HAD ON THE RECORD IN THE ABOVE-ENTITLED MATTER.

November 3, 1984

/s/Patricia Ferrier

PATRICIA FERRIER

Official Reporter

(TR.p.5)

o0o

IRA REINER, ESQ.

Los Angeles City Attorney

ARTHUR B. WALSH, ESQ.

Los Angeles City Deputy Attorney

UNITED STATES DISTRICT COURT

CENTRAL DISTRICT OF CALIFORNIA

| | |
|---|---|
| PEOPLE OF THE STATE | ) NO.CR84-906 |
| OF CALIFORNIA,[KAPLAN] | ) TJH (LAMC NO. |
| Plaintiff/Respondent | ) 31303105) |
| vs. | ) DISMISSING |
| GWENDOLYN L. KING | ) REMOVAL |
| Defendant and Appellant. | ) PETITION |

ORDER entered on Courtran OCT 16

Petitioner's Petition for Removal came on for hearing before this Court, the Honorable Terry J. Hatter, Jr., Judge presiding, on October 9, 1984. The issues having been duly heard and a decision having been duly rendered,

IT IS ORDERED that the Petition for

Removal is summarily dismissed pursuant to 28 USC 1446(c)(4) and the case remanded [to[ the Municipal Court of the Los Angeles Judicial District.

DATED: 10/11/84

/s/Terry J. Hatter, Jr.

Hon. TERRY J. HATTER,JR.

USDC Judge

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MARSHAL OF MUNICIPAL COURTS

LOS ANGELES COUNTY

NOTICE TO APPEAR ON WARRANT

Case No.31303105B

Nov 26 1984

California [Kaplan] v King

GWENDOLYN L. KING

1509 North Main St. Suite B118

Santa Ana, California

This office is holding a warrant for your arrest.

To avoid arrest, you must appear in person within three (3) days after receiving this notice.

Appear at the address shown below at the time indicated.

8:30 a.m. only. BRING THIS NOTICE

CENTRAL COURT

429 Bauchet St,L.A.

By [stamped signature]

E. REDMAN, Deputy

# CONSTITUTION OF THE UNITED STATES

## ★ ARTICLE I. ★

**SECTION 1.** All legislative powers herein granted shall be vested in a Congress of the United States, which shall consist of a Senate and House of Representatives.

**SECTION 8.** The Congress shall have power to lay and collect taxes, duties, imposts and excises, to pay the debts and provide for the common defence and general welfare of the United States; but all duties, imposts and excises shall be uniform throughout the United States:

To borrow money on the credit of the United States:

To regulate commerce with foreign nations, and among the several states, and with the Indian tribes:

To establish an uniform rule of naturalization, and uniform laws on the subject of bankruptcies throughout the United States:

**SECTION 10.** No state shall enter into any treaty, alliance, or confederation; grant letters of marque and reprisal; coin money; emit bills of credit; make any thing but gold and silver coin a tender in payment of debts; pass any bill of attainder, ex post facto law, or law impairing the obligation of contracts, or grant any title of nobility.

## ★ ARTICLE III. ★

SECTION 1. The judicial power of the United States, shall be vested in one supreme court, and in such inferior courts as the Congress may, from time to time, ordain and establish. The judges, both of the supreme and inferior courts, shall hold their offices during good behavior, and shall, at stated times, receive for their services a compensation, which shall not be diminished during their continuance in office.

SECTION 2. The judicial power shall extend to all cases, in law and equity, arising under this Constitution, the laws of the United States, and treaties made, or which shall be made under their authority; to all cases affecting ambassadors, other public ministers and consuls; to all cases of admiralty and maritime jurisdiction; to controversies to which the United States shall be a party: to controversies between two or more states, *between a state and citizens of another state*, between citizens of different states, between citizens of the same state, claiming lands under grants of different states, and between a state, or the citizens thereof, and foreign states, *citizens or subjects.*

## ★ AMENDMENT XIV. ★

(adopted 1868)

SECTION 1. All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the state wherein they reside. No state shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any state deprive any person of life, liberty, or property without due process of law; nor deny to any person within its jurisdiction the equal protection of the law.

## ★ ARTICLE IV. ★

SECTION 1. Full faith and credit shall be given in each state to the public acts, records and judicial proceedings of every other state. And the Congress may by general laws prescribe the manner in which such acts, records and proceedings shall be proved, and the effect thereof.

SECTION 2. The citizens of each state shall be entitled to all privileges and immunities of citizens in the several states.

## ★ ARTICLE VI. ★

This Constitution, and the laws of the United States which shall be made in pursuance thereof; and all treaties made, or which shall be made, under the authority of the United States, shall be the supreme law of the land; and the judges in every state shall be bound thereby, any thing in the constitution or laws of any state to the contrary notwithstanding.

## ★ AMENDMENT I. ★

Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech or of the press; or the right of the people peaceably to assemble, and to petition the government for a redress of grievances.

## ★ AMENDMENT IV. ★

The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no warrants shall issue but upon probable cause, supported by oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized.

## ★ AMENDMENT V. ★

No person shall be held to answer for a capital or other infamous crime unless on a presentment or indictment of a grand jury, except in cases arising in the land or naval forces, or in the militia, when in actual service, in time of war or public danger; nor shall any person be subject for the same offence to be twice put in jeopardy of life or limb; nor shall be compelled in any criminal case to be a witness against himself, nor be deprived of life, liberty, or property, without due process of law; nor shall private property be taken for public use without just compensation.

## ★ AMENDMENT VI. ★

In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial, by an impartial jury of the state and district wherein the crime shall have been committed, which district shall have been previously ascertained by law, and to be informed of the nature and cause of the accusation; to be confronted with the witnesses against him; to have compulsory process for obtaining witnesses in his favor, and to have the assistance of counsel for his defence.

## ★ AMENDMENT VII. ★

In suits at common law, where the value in controversy shall exceed twenty dollars, the right of trial by jury shall be preserved, and no fact tried by a jury shall be otherwise re-examined in any court of the United States than according to the rules of the common law.

## ★ AMENDMENT VIII. ★

Excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishments inflicted.

## ★ AMENDMENT XI. ★

(adopted 1798)

The judicial power of the United States shall not be construed to extend to any suit in law or equity, commenced or prosecuted against one of the United States, by citizens of another state, or by citizens or subjects of any foreign state.

## ★ AMENDMENT XIII. ★

(adopted 1865)

SECTION 1. Neither slavery nor involuntary servitude, except as a punishment for crime whereof the party shall have been duly convicted, shall exist within the United States, or any place subject to their jurisdiction.

SECTION 2. Congress shall have power to enforce this article by appropriate legislation.

PERTINENT TEXT OF U.N. CHARTER (TREATY)

Article 55

With a view to the conditions of stability and well-being which are necessary for peaceful and friendly relations among nations based on respect for the principles of equal rights and self determination of peoples, the United Nations shall promote:...

(c) universal respect for, and observance of, human rights and fundamental freedoms for all without distinction as to race, sex, language, or religion.

Article 56

All members pledge themselves to take joint and separate action in cooperation with the Organization for the achievement of the purpose set forth in Article 55.1/

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1/ References to human rights in the U.N. Charter Treaty, Preamble, Articles 1, 55, 56, 62, 68, 76, provide the basis for implementing protection of human rights. On December 10, 1948, the General Assembly adopted the Universal Declaration of Human Rights (U.N. Doc A/811) which constitutes general principles of the "law of Nations" (SEE Statute of I.C.J., Article 38(1)(c))

PERTINENT TEXT OF U.N. CHARTER (TREATY)
"LAW OF NATIONS"
UNIVERSAL DECLARATION OF HUMAN RIGHTS

Article 1

All human beings are born free and equal in dignity and rights...

Article 2

Everyone is entitled to all rights and freedoms set forth in this Declaration, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status....

Article 3

Everyone has the right to life, liberty and security of person.

Article 4

No one shall be held in slavery or servitude; slavery and slave trade shall be prohibited in all their forms.

Article 5

No one shall be subjected to torture or to cruel, inhuman or degrading treatment ot punishment.

Article 6

Everyone has the right to recognition everywhere as a person before the law.

Article 7

All are equal before the law and are entitled without any discrimination to equal protection of the law. All are entitled to equal protection against any discrimination in violation of this Declaration and against any incitement to such discrimination.

Article 8

Everyone has the right to an effective remedy by the competent national tribunals for acts violating the fundamental rights granted him by the constitution or by the law.

Article 9

No one shall be subjected to arbitrary arrest, detention or exile.

Article 10

Everyone is entitled in full equality to a fair and public hearing by an independent and impartial tribunal, in the determination of his rights and obligations and of any criminal charge...

Article 11

1. Everyone charged with a penal offence has the right to be presumed innocent until proved guilty according to law in a public trial at which he has had all the guarantees necessary for his defence.

2. No one shall be held guilty of any penal offence on account of any act or omission which did not constitute a penal offence, under national or international law, at the time when it was committed.

Article 12

No one shall be subjected to arbitrary interference with his privacy, family, home or correspondence, nor to attacks upon his honour and reputation, Everyone has the right to the protection of the law against such interference or attacks.

Article 13

1. Everyone has the right to freedom of movement and residence within the borders of each state.

2. Everyone has the right to leave any country, including his own, and to return to his country.

Article 14

1. Everyone has the right to seek and to enjoy in other countries asylum from persecution....

Article 15

1. Everyone has the right to a nationality.

2. No one shall be arbitrarily deprived of his nationality nor denied the right to change his nationality.

Article 17

1. Everyone has the right to own property alone as well as in association with others.

2. No one shall be arbitrarily deprived of his property.

Article 18

Everyone has the right to freedom of thought, conscience...to manifest his... belief in teaching, practice...

Article 19

Everyone has the right to freedom of opinion and expression; this right includes freedom to hold opinions without interference and to seek, receive and impart information and ideas through any

media and regardless of frontiers.

Article 20

1. Everyone has the right to freedom of peaceful assembly and association.

2. No one may be compelled to belong to an association.

Article 23

Everyone has the right to work, to free choice of employment...to protection against unemployment....

Article 26

1. Everyone has the right to education...professional education shall be made generally available and higher education shall be equally accessible to all on the basis of merit....

Article 28

Everyone is entitled to a social and international order in which the rights and freedoms set forth in this Declaration can be fully realized.

Article 30

Nothing in this Declaration may be interpreted as implying for any State, group or person any right to engage in any activity...aimed at destruction of... rights and freedoms set forth herein.

PERTINENT TEXT-MULTILATERAL TREATY

ABOLITION OF SLAVERY...

INSTITUTIONS AND PRACTICES SIMILAR...

SECTION I. INSTITUTIONS AND PRACTICES SIMILAR TO SLAVERY

Article 1

Each of the States Parties...shall take all practicable and necessary legislative and other measures to bring about ...as soon as possible the complete abolition or abandonment of the following institutions and practices...whether or not they are covered by the definition of slavery contained in Article 1 of the Slavery Convention signed at Geneva on 25 September, 1926:

(a) debt bondage, that is to say, the status or condition arising from a pledge by a debtor...if the value...as reasonably assessed is not applied towards liquidation of the debt...

Article 2

Any slave who takes refuge on board any vessel of a State Party to this Convention shall ipso facto be free.

SECTION III. SLAVERY AND INSTITUTIONS AND PRACTICES SIMILAR...

Article 5

In a country where the abolition or abandonment of slavery, or of the institutions or practices mentioned in Article I...is not yet complete, the act of multilating, branding or otherwise marking a slave or a person of servile status in order to indicate his status, or as a punishment, or for any other reason, or of being accessory thereto, shall be a criminal offence under the laws of the States Parties to this Convention and persons convicted thereof shall be liable to punishment.

SECTION IV. DEFINITIONS

Article 7

For purposes of the present Convention:

(a) 'slavery' means, as defined in the Slavery Convention of 1926, the status or condition of a person over whom any or all the powers attaching to the right of ownership are exercised...

(b) 'a person of servile status' means a person in the condition or status

resulting from any of the institutions or practices mentioned in Article 1 of this Convention....

SECTION V. CO-OPERATION BETWEEN STATES PARTIES AND COMMUNICATION OF INFORMATION

Article 8

The States Parties to this Convention undertake to co-operate with each other and with the United Nations to give effect to the foregoing provisions....

SECTION VI. FINAL CLAUSES

Article 9

No reservations may be made to this Convention.

Article 10

Any dispute between States Parties to this Convention relating to its interpretation or application, which is not settled by negotiation, shall be referred to the International Court of Justice at the request of any one of the parties to the dispute...2/

2/ Executive L, 88th Cong-1st Sess, September 7, 1956 Geneva, Switzerland, ratified by U.S. Senate November 2, 1967, deposited with the Secretary-General of U.N. and in force December 6, 1967.

# 15 USCS § 1631

(b) If a transaction involves one creditor as defined in section 103(f) [15 USCS § 1602(f)], ... such creditor shall make the disclosures. If a transaction involves more than one creditor or lessor, only one creditor or lessor shall be required to make the disclosures.

(As amended Mar. 31, 1980, P.L. 96-221, Title VI, § 611 in part, 94 Stat. 174.)

## HISTORY; ANCILLARY LAWS

**Amendments:**

1980. Act Mar. 31, 1980 (effective 2 years and 6 months after enactment on 3/31/80, as provided by § 625(a) of such Act, ... substituted this section for one which read:

"(a) Each creditor shall disclose clearly and conspicuously, in accordance with the regulations of the Board, to each person to whom consumer credit is extended, the information required under this chapter or chapter 4."

# 15 USCS § 1635

## Right of rescission

## as to certain transactions

(a)...in the case of any consumer credit transaction...in which a security interest including any such interest arising by operation of law, is or will be retained or acquired in any property which is used as the principal dwelling of the person to whom the credit is extended, the obligor shall have the right to rescind the transaction until midnight of the third business day following the consummation of the transaction OR THE DELIVERY OF THE INFORMATION AND RESCISSION FORMS REQUIRED UNDER THIS SECTION TOGETHER WITH A STATEMENT CONTAINING THE MATERIAL DISCLOSURES REQUIRED UNDER THIS TITLE 15 USC §§1601 et seq, whichever is later, by notifying the Creditor...The creditor shall also provide appropriate forms for the obligor to exercise his right to rescind any transaction subject to the section. [EMPHASIS ADDED]

(b) When an Obligor exercises his right to rescind under subsection (a), he is not liable for any finance or other charge,and any security interest given by the obligor, including any such interest arising by operation of law, becomes void upon such rescission. WITHIN 20 DAYS AFTER RECEIPT OF A NOTICE OF RESCISSION, THE CRED-

ITOR SHALL RETURN TO THE OBLIGOR ANY MONEY OR PROPERTY GIVEN...AND SHALL TAKE ANY ACTION NECESSARY OR APPROPRIATE TO REFLECT THE TERMINATION OF ANY SECURITY INTEREST CREATED UNDER THE TRANSACTION. If the Creditor has delivered any property to the obligor, the obligor may retain possession of it. Upon the performance of the creditor's obligations under this section, the obligor shall tender the property to the creditor...The procedures prescribed in this subsection shall apply except when otherwise ordered by a court.[EMPHASIS ADDED]

# 42 § 1981

## Equal rights under the law

All persons within the jurisdiction of the United States shall have the same rights in every State and Territory to make and enforce contracts, to sue, be parties, give evidence, and to the full and equal benefit of all laws and proceedings for the security of persons and property as is enjoyed by white citizens, and shall be subject to like punishment, pains, penalties, taxes, licenses, and exactions of every kind, and to no other.

# 42 § 1982

## Property rights of citizens

All citizens of the United States shall have the same right, in every State and Territory, as is enjoyed by white citizens thereof to inherit, purchase, lease, sell, hold, and convey real and personal property.

# 42 § 1983

## Civil action for deprivation of rights

Every person who, under color of any statute, ordinance, regulation, custom, or usage, of any State or Territory or the District of Columbia, subjects or causes to be subjected any citizen of the United States or other person within the jurisdiction thereof to the deprivation of any rights, privileges, or immunities secured by the Constitution and laws, shall be liable to the party injured in an action at law, suit in equity, or other proper proceeding for redress....

# 42 § 1985

## Conspiracy to interfere with civil rights

OBSTRUCTING JUSTICE; INTIMIDATING PARTY

(2) If two or more persons in any State or Territory conspire to deter by force, intimidation, or threat, any party or witness in any court of the United States from attending such court, or from testifying to any matter pending therein, freely, fully, and truthfully, or to injure such party or witness in his person or property on account of his having so attended or testified, or to influence the verdict...in any such court...; or if two or more persons conspire for the purpose of impeding, hindering, obstructing, or defeating, in any manner, the due course of justice in any State or Territory, with intent to deny to any citizen the equal protection of the laws, or to injure him or his property for lawfully enforcing, or attempting to enforce, the right of any person, or class of persons, to the equal protection of the laws;... the party so injured or deprived may have an action for the recovery of damages occasioned by such injury or deprivation against any one or more of the conspirators.

# 28 § 2072

## Rules of civil procedure

The Supreme Court shall have the power to prescribe by general rules, the forms of process, writs, pleadings, and motions, and the practice and procedure of the district courts and courts of appeals of the United States in civil actions...and appeals therein,...

Such rules shall not abridge or modify any substantive right and shall preserve the right of trial by jury as at common law and as declared by the Seventh Amendment to the Constitution.

Such rules shall not take effect until they have been reported to Congress by the Chief Justice at or after the beginning of a regular session thereof but not later than the first day of May, and until the expiration of ninety days after they have been thus reported.

All laws in conflict with such rules shall be of no further force or effect after such rules have taken effect. Nothing in this title, anything therein to the contrary notwithstanding, shall in any way limit, supercede, or repeal any such rules heretofore prescribed by the Supreme Court.

# 28 § 455

## Disqualification of justice, judge

(a) Any justice, judge, or magistrate of the United States shall disqualify himself in a proceeding in which his impartiality might reasonably be questioned.

(b) He shall also disqualify himself in the following circumstances:

(1) Where he has a personal bias or prejudice concerning a party, or personal knowledge of disputed evidentiary facts concerning the proceeding.

# FEDERAL
# RULES OF CIVIL PROCEDURE
## FOR THE
# UNITED STATES DISTRICT COURTS

RULE 1, FRCP, 28 USC

SCOPE OF RULES

These rules govern the procedure in the United States district courts in all suits of a civil nature whether cognizable as cases at law or in equity or in admiralty, with the exceptions stated in Rule 81. They shall be construed to secure the just, speedy, and inexpensive determination of every action.

RULE 2, FRCP, 28 USC

ONE FORM OF ACTION

There shall be one form of action to be known as "civil action."

RULE 3, FRCP, 28 USC

COMMENCEMENT OF ACTION

A civil action is commenced by filing a complaint with the court.

RULE 4, FRCP, 28 USC

PROCESS

(a) Summons: Issuance. Upon the filing of the complaint the clerk shall forthwith issue a summons and deliver the summons to the plaintiff or the plaintiff's attorney, who shall be responsible for prompt service of the summons and a copy of the complaint. Upon request of the plaintiff separate or additional summons shall issue against any defendants.

RULE 8, FRCP, 28 USC

GENERAL RULES OF PLEADING

(a) Claims for Relief. A pleading which sets forth a claim for relief, whether an original claim, counterclaim, cross-claim or third-party claim, shall contain (1) a short and plain statement of the grounds upon which the court's jurisdiction depends unless the court already has jurisdiction and the claim needs no new grounds to support it, (2) a short and plain statement of the claim showing that the pleader is entitled to relief, and (3) a demand for judgment for the relief to which he deems himself entitled. Relief in the alternative or of several different types may be demanded.

RULE 38, FRCP, 28 USC

JURY TRIAL OF RIGHT

(a) Right Preserved. The right of tria by jury as declared by the Seventh Amendment to the Constitution or as given by a statute of the United States shall be preserved to the parties inviolate.

(b) Demand. Any party may demand a trial by jury of any issue triable of right by a jury by serving upon the other parties a demand therefor in writing at any time after the commencement of the actin and not later than 10 days after the service of the last pleading directed to such issue. Such demand may be indorsed upon a pleading of a party.

RULE 39, FRCP, 28 USC

TRIAL BY JURY OR BY THE COURT

(a) By jury. When trial by jury has been demanded as provided in Rule 38, the action shall be designated upon the docket as a jury action. The trial of all issues so demanded shall be by jury, unless (1) the parties or their attorneys of record, by written stipulation filed with the court or by an oral stipulation made in open court and entered in the record, consent to trial by the court sitting without a jury or (2) the court upon motion or of its own initiative finds that a right of trial by jury of some or all of thise issues does not exist under

the Constitution or statutes of the United States.

RULE 43, FRCP, 28 USC

TAKING OF TESTIMONY

(a) Form. In all trials the testimony of witnesses shall be taken orally in open court, unless otherwise provided by an Act of Congress or by these rules, the Federal Rules of Evidence or other rules adopted by the Supreme Court.

RULE 52, FRCP, 28 USC

FINDINGS BY THE COURT

(a) Effect. In all actions tried upon the facts without a jury or with an advisory jury, the court shall find the facts specially and state separately its conclusions of law thereon, and judgment shall be entered pursuant to Rule 58; and in granting or refusing interlocutory injunctions the court shall similarly set forth the findings of fact and conclusions of law which constitute the grounds of its action. Requests for findings are not necessary for purposes of review. Findings of fact shall not be set aside unless clearly erroneous, and due regard shall be given to the opportunity of the trial court to judge the credibility of the witnesses. The findings of a master, to the extent that the court adopts them, shall be considered as the findings of the court. Findings of fact and conclusions of law are unnecessary on decisions of motions under Rules 12 or 56 or any

other motion except as provided in Rule 41(b).

RULE 41, FRCP, 28 USC

DISMISSAL OF ACTIONS

(b) Involuntary Dismissal: Effect For failure of the plaintiff to prosecute or to comply with these rules or any order of court, a defendant may move for dismissal of an action or of a claim against him...If the court renders judgment on the merits against the plaintiff, the court shall make findings as provided in Rule 52(a). Unless the court in its order for dismissal otherwise specifies, a dismissal under this subdivision and any dismissal no provided for in this rule, other than a dismissal for lack of jurisdiction, for improper venue, or for failure to join a party under Rule 19, operates as an adjudication upon the merits.

RULE 53, FRCP, 28 USC

MASTERS

(a) Appointment and Compensation. The court in which any action is pending may appoint a special master therein. As used in these rules the word "master" includes a referee...The compensation to be allowed to a master shall be fixed by the co court, and shall be charged upon such of the parties or paid out of any fund or subject matter of the action, which is in custody and control of the court as the court may direct.

(b) Reference. A reference to a master shall be the exception and not the rule. In actions to be tried by a jury, a reference shall be made only when the issues are complicated; in actions to be tried without a jury, save in matters of account and of difficult computation of damages, a reference shall be made only upon a showing that some exceptional condition requires it...

(e) Report. (1) Contents and Filing. The master shall prepare a report upon the matters submitted to him by the order of reference and, if required to make findings of fact and conclusions of law, he shall set them forth in the report. He shall file the report with the clerk of the court and in an action to be tried without a jury, unless otherwise directed by the order of reference, shall file with it a transcript of the proceedings and of the evidence and the original exhibits. The clerk shall forthwith mail to all parties notice of the filing.

RULE 54, FRCP, 28 USC

JUDGMENTS

(a) Definition; Form. "Judgment" as used in these rules includes a decree and any order from which an appeal lies. A judgment shall not contain a recital of pleadings, the report of a master, or the record of prior proceedings.

(b) Judgment Upon Multiple Claims or Involving Mutiple Parties. When more than one claim for relief is presented in an action, whether as a claim, counterclaim, cross-claim, or third-party claim, or wh when multiple parties are involved, the court may direct the entry of a final judgment as to one or more but fewer than all of the claims or parties only upon an express determination that there is no just reason for delay and upon an express direction for the entry of judgment In the absence of such determination and direction, any order or other form of decision, however designated, which adjudicates fewer than all the claims or the rights and liabilities of fewer than all the parties shall not terminate the action as to any of the claims or parties, and the order or other form of decision is subject to revision at any time before the entry of judgment adjudicating all the claims and the rights and liabilities of all the parties.

RULE 57, FRCP, 28 USC

DECLARATORY JUDGMENTS

The procedure for obtaining a declaratory judgment pursuant to Title 28 USC 2201, shall be in accordance with these rules, and the right to trial by jury may be demanded under the circumstances and in the manner provided in Rules 38 and 39. The existence of another adequate remedy does not preclude a judgment for declaratory relief in cases where it is appropriate...

RULE 83, FRCP, 28 USC

RULES BY DISTRICT COURTS

Each district court by action of a majority of the judges thereof may from t time to time make and amend rules governing its practice not inconsistent with these rules. Copies of rules and amendments so made by any district court shall upon their promulgation be furnished to the Supreme Court of the United States. In all cases not provided for by rule, the district courts may regulate their practice in any manner not inconsistent with these rules.

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# FEDERAL
# RULES OF APPELLATE PROCEDURE

RULE 1, FRAP, 28 USC

SCOPE OF RULES

(a) Scope of Rules. These rules govern procedure in appeals to United States courts of appeals from the United States district courts...; in proceedings in the courts of appeals for review...; and in applications for writs or other relief which a court of appeals or a judge thereof is competent to give....

(b) Rules Not to Affect Jurisdiction. These rules shall not be construed to extend or limit the jurisdiction of the courts of appeals as established by law.

RULE 27, FRAP, 28 USC

MOTIONS

(c) Power of a Single Judge to Entertain Motions. In addition to the authority expressly conferred by these rules or by law, a single judge of a court of appeals may entertain and may grant or deny any request for relief which under these rules may properly be sought by motion, except that a single judge may not dismiss or otherwise determine an appeal or other proceeding, and except that a court of appeals may provide by order or rule that

any motion or class of motions must be acted upon by the court. The action of a single judge may be reviewed by the court.

(d) Form of Papers; Number of Copies. All papers relating to motions may be typewritten. Three copies shall be filed with the original, but the court may require that additional copies be furnished.

RULE 47, FRAP, 28 USC

RULES BY COURTS OF APPEAL

Each court of appeals by action of a majority of the circuit judges in regular active service may from time to time make and amend rules governing its practice not inconsistent with these rules. Copies of all rules made by a court of appeals shall upon their promulgation be furnished to the Administrative Office of the United States Courts.

[The order of the Supreme Court of December 4, 1967, stated that the rules set forth, to be known as the Federal Rules of Appellate Procedure, "be and they hereby are, prescribed, pursuant to... section[s] 2072...of Title 28, USC, to govern the procedure in appeals to United States courts of appeal from the United States district courts,...in applications for writs or other relief which a United States court of appeals or judge thereof is competent to give...."]

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CALIFORNIA BANK & CORP TAX LAW

REVENUE & TAXATION CODE

§23302 The Franchise Tax Board shall transmit names of taxpayers to the Sec'y of State as to which the suspension or forfeiture provisions of §23301...are or become applicable, and the suspension or forfeiture therein provided for shall become effective, and the certificate of the Sec'y of State shall be prima facie evidence of such suspension or forfeiture.

§23304 Every contract made in violation of this article is hereby declared to be voidable, at the instance of any party other than the taxpayer.

§23571 (a) Except for the purpose of amending the articles of incorporation to set forth a new name, the corporate powers, rights and privileges of a domestic taxpayer may be suspended and shall not be exercised for any purpose or in any manner in this state.

CALIFORNIA CIVIL CODE

§1265 From and after the time the declaration [of Homestead] is filed for the record, the premises therein described constitute a homestead.

§1549 Contract. Definition.
A contract is an agreement to do or not to do a certain thing.

§1550 Essential Elements of Contract.
It is essential to the existence of a contract that there should be:
1. Parties capable of contracting;
2. Their consent;
3. A lawful object; and
4. A sufficient cause or consideration.

§1558 Identity of Parties Essential.
It is essential to the validity of a contract, not only that the parties should exist, but that it should be possible to identify them.

§2920 Mortgage--Definition
Mortgage is a contract by which specific property is hypothecated for the performance of an act, without the necessity of a change of possession.

§2922 Written Creation--Formalities
[Statute of Frauds] A mortgage can be created, renewed, or extended, only by writing, executed with the formalities required in the case of a grant of real property.

CALIFORNIA CODE OF CIVIL PROCEDURE

§83 Concurrent Jurisdiction.

The jurisdiction of municipal and justice courts is the same and concurrent.

§86 Jurisdiction

Each municipal and justice court has original jurisdiction of civil cases and

proceedings as follows:

(1) In all cases at law in which the demand, exclusive of interest, or the value of the property in controversy amounts to fifteen thousand dollars ($15,000) or less, ...

(4) In all proceedings in forcible entry or forcible or unlawful detainer:

(A) In actions to recover possession o of real property where rent is charged and the amount of the last rental charged is one thousand ($1,000) per month or less... [EMPHASIS ADDED]

§410.10 Basis of Jurisdiction.
A court of this state may exercise jurisdiction on any basis not inconsistent with the Constitution of this state or of the United States.

§418.10 Objection to Jurisdiction. Motion to Quash Service of Summons or Dismiss Action

(a) A defendant, on or before the last day of his time to plead...may serve and file a notice of motion...

(1) To squash service of summons on the ground of lack of jurisdiction of the court over him

(c) If such motion is denied...the defendant, within 10 days after service upon him of a written notice of entry of an order of the court...and before pleading, may petition an appropriate reviewing

court for a writ of mandate to require the trial court to enter its order squash- the service of summons...

(d) No default may be entered against the defendant...and no motion under this section [CCP 418.10] shall be deemed a general appearance by the defendant.

§803 ACTIONS FOR USURPATION OF...A FRANCHISE. Action by Attorney General in Name of People.

An action may be brought by the attorney-general, in the name of the people of this state, upon his own information, or upon a complaint of a private party, against any person who usurps, intrudes, into, or unlawfully holds or exercises any...franchise, or against any corporation, either de jure or de facto, which usurps, intrudes into, or unlawfully holds or exercises any franchise, within this state. AND THE ATTORNEY-GENERAL MUST BRING THE ACTION, WHENEVER HE HAS REASON TO BELIEVE THAT ANY SUCH...FRANCHISE HAS BEEN USURPED, INTRUDED INTO, OR UNLAWFULLY HELD OR EXERCISED BY ANY PERSON, OR WHEN HE IS DIRECTED TO DO SO BY THE GOVERNOR. [EMPHASIS ADDED]

CALIFORNIA PENAL CODE

§419 REPOSSESSION OF LANDS AFTER REMOVAL BY LEGAL PROCESS. Every person who has been removed from any lands by ["DUE' omitted] process of law, or who has removed from any lands pursuant to the lawful adjudication or direction of any

Court, tribunal, or officer, and who afterwards unlawfully returns to settle, reside upon, or take possession of such lands, is guilty of a misdemeanor. (1872)

§1024 Plea of Not Guilty; Entry on Refusal to Answer Charge. If the defendant refuses to answer the accusatory pleading by demurrer or plea, a plea of not guilty must be entered. (1872)

FEDERAL RULES OF BANKRUPTCY

BR RULE 6009 Prosecution and Defense of Proceedings by Trustee or Debtor In Possession. With or without court approval, the trustee or debtor in possession may prosecute or may enter an appearance and defend any pending action or proceeding by or against the debtor, or commence and prosecute any action or proceeding in behalf of the estate before any tribunal.

BR RULE 6007 Abandonment or Disposition of Property.

(a) Notice of Proposed Abandonment.

Unless otherwise directed by the court, the trustee or debtor in possession shall give notice of a proposed abandonment or disposition of property to all creditors, indenture trustees... pursuant to the Code [Title 11 USC]...

(b) Motion by Party In Interest.

A party in interest may file and serve a motion requiring the trustee or debtor in possession to abandon property

of the estate.

BR RULE 6004 [Old BR RULE 606(b)(2)] COLLECTION AND LIQUIDATION. Use, Sale of Property.

(a) Notice of Proposed Use, Sale.

Notice of a proposed use, sale...of property other than in the ordinary course of business shall be given pursuant to Rule 2002(c), and (i).

(e) Conduct of Sale.

(1) Public or Private Sale..

...an itemized statement of the property sold, the name of each purchaser, and the price received for each item ...shall be filed with the clerk on the completion of a sale. If the property is sold by an auctioneer, he shall file the statement and furnish a copy to the trustee, debtor in possession, or chapter 13 debtor. If the property is not sold by an auctioneer, the trustee, debtor in possession, or chapter 13 debtor shall file the statement.

(2) Execution of Instruments.

After a sale in accordance with this rule, the debtor, the trustee, or debtor in possession, as the case may be, shall execute any instrument necessary or ordered by the court to effectuate the transfer to the purchaser.

BR RULE 2002 NOTICE TO CREDITORS, EQUITY SECURITY HOLDERS

(a) Twenty-day Notices to Parties In Interest.

...the clerk, or some other person as the court may direct, shall give the debtor, the trustee, all creditors and indenture trustees not less than 20 days notice by mail of...(2) a proposed use,sale, lease of property...(7) hearings on all applications for compensation or reimbursement of expenses totaling in excess of $100.00 ...

(c) Contents of Notice

(1) Proposed Use, Sale or Lease of Property.

Subject to Rule 6004, the notice of a proposed use, sale, or lease of property required by subdivision (a) of this rule shall include the time and place of any public sale, the terms and conditions of any private sale and the time fixed for filing objections...

(2) Notice of Hearing on Compensation

The notice of a hearing on an application for compensation or reimbursement of expenses required by subdivision (a)(7) of of this rule shall identify the applicant and the amounts requested.

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11 USC 541

PROPERTY OF THE ESTATE

(a) The commencement of a case under ...this title creates an estate...

(e) The estate shall have the benefit of any defense available to the debtor... including statutes of limitation, statutes of fraud, usury, and other personal defenses. A waiver of any such defense by the debtor after the commencement of the case does not bind the estate.

11 USC 363

USE, SALE, OR LEASE OF PROPERTY

(b) The trustee, after notice and a hearing, may use, sell, or lease...property of the estate.

(n) The trustee may void a sale under this section if the sale price was controlled by an agreement among potential bidders at such sale, or may recover from a party to such agreement any amount by which the value of the property sold exceeds the price at which such sale was consummated, and may recover any costs, attorneys' fees, or expenses incurred in voiding such sale or recovering such amount. The court may grant judgment in favor of the estate and against any such party that entered into such agreement in willful disregard of this subsection for punitive damages in addition to any recovery under the preceding sentence.

11 USC 105

POWER OF COURT
(a) The bankruptcy court may issue any order, process, or judgment that is necessary or appropriate to carry out the provisions of this title.

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FIN

JURISDICTIONAL STATEMENT APPENDICES

CA9 NO.83-6427

King et al v California et al

784 F 2d 910 (9th Cir 1986)

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